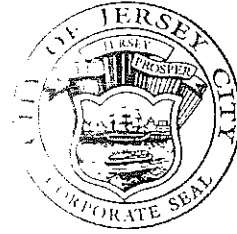


City Clerk File No. Ord. 14.130
Agenda No. 3.A 1st Reading
Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.130

TITLE:

ORDINANCE APPROVING A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC, PURSUANT TO THE PROVISIONS OF THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ FOR THE PROPERTY DESIGNATED AS BLOCK 13003, LOT 1, C3.80 ON THE CITY'S TAX MAP AND MORE COMMONLY KNOWN BY THE STREET ADDRESS AS 80 COLUMBUS DRIVE

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

WHEREAS, Columbus Hotel Urban Renewal, LLC, is an urban renewal entity, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 2003, as amended and supplemented, N.J.S.A. 40A:20-1 et seq. [Entity]; and

WHEREAS, the Entity is the contract purchaser of certain property known as Block 13003, Lot 1, C3.80, on the City's Official Tax map, consisting of approximately .125 acres, and more commonly known by the street address of 80 Columbus Drive, Jersey City, and more specifically described by metes and bounds, in the application [Property]; and

WHEREAS, the Property is located within the Exchange Place North Redevelopment Plan Area as required by N.J.S.A. 40A:20-4 and N.J.S.A. 40A:12A-5(g); and

WHEREAS, the Project was created by virtue of a Master Deed of 100 Columbus Condominium dated November 5, 2005, amended on April 27, 2006, and further amended July 12, 2013, as recorded in the Hudson County Register's Office, which partitioned the Property into three (3) separate and distinct condominium units, one of which is this Project, identified therein as Condo Unit 3B; and

WHEREAS, the Entity shall not amend the Master Deed during the term of the abatement without prior written notice to the City and not in any manner that would alter the Land Taxes or reduce the Service Charge to the City; and

WHEREAS, the Entity has applied for a 20 year long term tax exemption to construct a fourteen (14) story building to develop a commercial hotel project consisting of approximately 152 rooms (Residence Inn) for a total of approximately 91,759 square feet, to be constructed on partly vacant land and air rights over the existing Grove Street PATH station located on the corner of Christopher Columbus Drive and Marin Boulevard; and

WHEREAS, the Entity agrees that the project shall be subject to a Project Labor Agreement as required by Section 304-33 of the Jersey City Municipal Code; and

WHEREAS, the Project received site plan approval from the Planning Board on July 24, 2012, and amended site plan approval on April 2, 2013; and

WHEREAS, the Project is expected to generate approximately \$400,000 annually in hotel occupancy taxes for the City; and

ORDINANCE APPROVING A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC PURSUANT TO THE PROVISIONS OF THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ FOR THE PROPERTY DESIGNATED AS BLOCK 13003, LOT 1, C3.80 ON THE CITY'S TAX MAP AND MORE COMMONLY KNOWN BY THE STREET ADDRESS AS 80 COLUMBUS DRIVE

WHEREAS, Columbus Hotel Urban Renewal, LLC, has agreed to:

1. pay the greater of (i) the Minimum Annual Service Charge or (ii) an annual service charge consisting of 2% of Total Project Cost of the Entity; Total Project Cost shall be defined according to the industry standard set forth by Marshall & Swift, in its Marshall Valuation Service, as modified and set forth in the Financial Agreement by the parties, which sum is estimated to be \$501,040 and which shall be subject to statutory staged increases over the term of the tax exemption; and
2. pay an annual sum equal to 0.5% of each prior year's Annual Service Charge as an Administrative Fee; and
3. provide employment and other economic opportunities for City residents and businesses; and
4. pay to the City, for remittance to Hudson County, an additional amount equal to 5% of the Annual Service Charge upon receipt of that charge; and
5. pay the sum of \$137,639 (\$1.50 x 91,759 square feet of hotel and retail space) to the City's Affordable Housing Trust Fund; and

WHEREAS, the City hereby determines that the relative benefits of the project outweigh the cost of the tax exemption, for the following reasons:

1. the current real estate taxes, which represent the Entity's pro rata share of the Land Tax assessment, which at the time of adoption of the herein Ordinance was thirty-three and one-third percent (33 1/3%) pursuant to the terms of the Master Deed, as recorded, generate revenue of only \$34,696 whereas, the Annual Service Charge as estimated, will generate revenue of more than \$501,040 to the City;
2. it is expected that the Project will create approximately 100 jobs during construction and 40 new permanent full-time jobs;
3. the Project will stabilize and contribute to the economic growth of businesses in the surrounding area;
4. the Project will further the overall redevelopment objectives of the Exchange Place North Redevelopment Plan Area;
5. the City's impact analysis, on file with the Office of the City Clerk, indicates that the benefits of the Project outweigh the costs to the City; and

WHEREAS, the City hereby determines that the tax exemption is important in obtaining development of the project and influencing the locational decisions of probable occupants for the following reasons:

1. the relative stability and predictability of the Annual Service Charges will make the Project more attractive to investors needed to finance the Project;
2. the relative stability and predictability of the Annual Service Charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will insure the likelihood of the success of the Project; and

WHEREAS, Columbus Hotel Urban Renewal, LLC, has initially complied with Executive Order 2002-005 concerning "Disclosure of Lobbyist Representative

ORDINANCE APPROVING A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC PURSUANT TO THE PROVISIONS OF THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ FOR THE PROPERTY DESIGNATED AS BLOCK 13003, LOT 1, C3.80 ON THE CITY'S TAX MAP AND MORE COMMONLY KNOWN BY THE STREET ADDRESS AS 80 COLUMBUS DRIVE

Status" by filing an appropriate letter in the Office of the City Clerk.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

A. The application of Columbus Hotel Urban Renewal, LLC, an urban renewal company, formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 2003, as amended and supplemented, N.J.S.A. 40A:20-1 et seq, a copy of which is on file in the office of the City Clerk, for Block 13003, Lot 1, C3.80, more commonly known by the street address of 80 Columbus Drive, and more specifically described by metes and bounds in the application, is hereby approved.

B. The Project was created by virtue of a Master Deed of 100 Columbus Condominium dated November 5, 2005, amended on April 27, 2006, and further amended July 12, 2013, as recorded in the Hudson County Register's Office, which partitioned the Property into three (3) separate and distinct condominium units, one of which is this Project, identified therein as Condo Unit 3B.

C. The Mayor or Business Administrator is hereby authorized to execute a tax exemption Financial Agreement and a Project Employment and Contracting Agreement. The Financial Agreement shall include at a minimum the following terms and conditions:

1. Term: the earlier of 25 years from the adoption of the within Ordinance or 20 years from the date the project is Substantially Complete;
2. Annual Service Charge: each year the greater of:
 - (a) the Minimum Annual Service Charge; or
 - (b) or 2% of Total Project Cost of the Entity, Total Project Cost shall be defined according to the industry standard set forth by Marshall & Swift, in its Marshall Valuation Service, as modified by the parties and set forth in the Financial Agreement, which is estimated to be \$25,051,990, for an estimated annual service charge of \$501,040 which shall be subject to statutory increases during the term of the tax exemption.
3. Administrative Fee: 0.5% of the prior year's Annual Service Charge;
4. County Payment: 5% of the Annual Service Charge to the City for remittance by the City to Hudson County;
5. Project: new construction of a fourteen (14) story building as a commercial hotel project to consist of approximately 152 rooms (Residence Inn) for a total of approximately 91,759 square feet;
6. Affordable Housing Trust Fund: \$1.50 x 91,759 square feet of hotel and retail space, for a total of approximately \$137,639;
7. An agreement that the Entity shall not amend the Master Deed during the term of the abatement without prior written notice to the City and not in any manner that would alter the Land Taxes or reduce the Service Charge to the City;
8. An obligation to execute a Project Employment and Contracting Agreement for non-construction jobs and contracts to insure employment and other economic benefits to City residents and businesses;

ORDINANCE APPROVING A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC PURSUANT TO THE PROVISIONS OF THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ FOR THE PROPERTY DESIGNATED AS BLOCK 13003, LOT 1, C3.80 ON THE CITY'S TAX MAP AND MORE COMMONLY KNOWN BY THE STREET ADDRESS AS 80 COLUMBUS DRIVE

9. The Applicant does not meet the threshold requirement in Section 304-33 of the Jersey City Municipal Code, that would subject it to a Project Labor Agreement, because total construction costs do not exceed \$25,000,000; however, the Applicant agrees to waive the threshold and construction jobs shall be subject to a Project Labor Agreement by mutual consent of the parties and as a condition of the Financial Agreement;
 10. Janitorial and unarmed security jobs within the Project shall be paid a Living Wage pursuant to Section 3-76 of the Jersey City Municipal Code; and
 11. This Ordinance will sunset and the Tax Exemption will terminate unless construction of the Project commences within two (2) years of the adoption of the within Ordinance.
- D. The City Clerk shall deliver a certified copy of the Ordinance and Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.
- E. The application is on file with the office of the City Clerk. The Financial Agreement and Project Employment and Contracting Agreement shall be in substantially the form on file in the Office of the City Clerk, subject to such modification as the Business Administrator or Corporation Counsel deems appropriate or necessary
- F. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- G. This ordinance shall take effect at the time and in the manner provided by law.
- H. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new; therefore underlining has been omitted. For purposes of advertising only, new matter is indicated by **bold face** and repealed matter by *italic*.

DJ/he
9/24/14

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required ☐
Not Required ☐

RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

ORDINANCE APPROVING A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC, PURSUANT TO THE PROVISIONS OF THE LONG TERM TAX EXEMPTION LAW N.J.S.A. 40A:20-1 ET SEQ FOR THE PROPERTY DESIGNATED AS BLOCK 13003, LOT 1, C3.80 ON THE CITY'S TAX MAP AND MORE COMMONLY KNOWN BY THE STREET ADDRESS AS 80 COLUMBUS DRIVE

Initiator

Department/Division	Law	Law
Name/Title	Diana Jeffrey	Assistant Corporation Counsel
Phone/email	201-547-4797	djeffrey@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Resolution Purpose

A TWENTY (20) YEAR TAX EXEMPTION FOR A COMMERCIAL HOTEL PROJECT TO BE CONSTRUCTED BY COLUMBUS HOTEL URBAN RENEWAL, LLC.

I certify that all the facts presented herein are accurate.

Signature of Department Director

Date

TIER 6 - FINANCIAL AGREEMENT (20 YEAR)

Rev. 9/26/14

Long Term Tax Exemption

N.J.S.A. 40A:20-1, et seq.

(Commercial or Industrial)

Re: 80 Columbus
Approximately 0.12 acres of land
Block 13003, Lot 1, C.380

PREAMBLE

THIS FINANCIAL AGREEMENT, [Agreement] is made as of the ____ day of ____, 2014, by and between **COLUMBUS HOTEL URBAN RENEWAL, LLC**, an urban renewal entity formed and qualified to do business under the provisions of the Long Term Tax Exemption Law of 2003, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., having its principal office at Harborside Financial Center, Plaza 10, Suite 1203, 3 Second Street, Jersey City, NJ 07311 [Entity], and the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, having its principal office at 280 Grove Street, Jersey City, New Jersey 07302 [City].

RECITALS

WITNESSETH:

WHEREAS, the Entity is the Contract Purchaser pursuant to a Deed, of certain property designated as Block 13003, Lot 1, C.380, more commonly known by the street address of 80 Columbus Drive, Jersey City, and more particularly described by the metes and bounds description set forth as Exhibit 1 to this Agreement; and

WHEREAS, the property is located within the Exchange Place North Redevelopment Plan Area; and

WHEREAS, this property is an industrial or commercial project and is thus eligible for tax exemption pursuant to N.J.S.A. 40A:20-4; and

WHEREAS, the Project was created by virtue of a Master Deed of 100 Columbus Condominium dated November 5, 2005, amended on April 27, 2006, and further amended July 12, 2013, which partitioned the Property into three (3) separate and distinct condominium units, one of which is this Project, identified therein as Condo Unit 3B as recorded in the Hudson County Register's Office; and

WHEREAS, the Entity shall not amend the Master Deed during the term of the abatement in any manner without prior written notice to the City that would alter the Land Taxes or reduce the Service Charge to the City; and

WHEREAS, the Entity has applied for a 20 year long term tax exemption to construct a fourteen (14) story building to develop a commercial hotel project consisting of approximately 152 rooms (Residence Inn) for a total of approximately 91,759 square feet, to be constructed on partly vacant land and air rights over the existing Grove Street PATH station located on the corner of Christopher Columbus Drive and Marin Boulevard; and

WHEREAS, the Project received site plan approval from the Planning Board on July 24, 2012 and amended site plan approval on April 2, 2013; and

WHEREAS, on September 26, 2014, the Entity filed an Application with the City for a long term tax exemption for the Project; and

WHEREAS, by the adoption of Ordinance 14-___ on ____, 2014, the Municipal Council approved a long term tax exemption for the Project and authorized the execution of a Financial Agreement; and

WHEREAS, the City made the following findings:

A. Relative Benefits of the Project when compared to the costs:

1. the current real estate taxes, which represent the Entity's pro rata share of the Land Tax assessment, which at the time of adoption of the herein Ordinance was thirty-three and one-third percent (33 1/3%) interest share of the Property, pursuant to the terms of the Master Deed as recorded, generate revenue of only \$34,696 whereas, the Annual Service Charge as estimated, will generate revenue of more than \$501,040 to the City;
2. it is expected that the Project will generate Hotel Occupancy Taxes for the City in excess of \$400,000 per year_ in addition to the Annual Service Charge;
3. as required by ordinance 13-088, the Entity shall pay the City the sum of \$45,880 on or before the effective date of the ordinance approving the Financial Agreement, and will pay the balance of \$91,759 as an affordable housing contribution as required by the ordinance;

4. it is expected that the Project will create approximately 100 new construction jobs and 40 new permanent full time jobs;
5. the project should stabilize and contribute to the economic growth of existing local business and to the creation of new businesses, which cater to the new occupants.

B. Assessment of the Importance of the Tax Exemption in obtaining development of the project and influencing the locational decisions of probable occupants:

1. the relative stability and predictability of the annual service charges will make the Project more attractive to investors and lenders needed to finance the Project; and
2. the relative stability and predictability of the service charges will allow the owner to stabilize its operating budget, allowing a high level of maintenance to the building over the life of the Project, which will attract occupants to the Project, insure the likelihood of stabilized rents to tenants and the success of the Project; and
3. have a positive impact on the surrounding area.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Governing Law

This Agreement shall be governed by the provisions of the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1 et seq., Executive Order of the Mayor, 2013-004, Disclosure of Lobbyist Status, Ordinance 02-075, and Ordinance 14-069, which authorized the execution of this Agreement. It being expressly understood and agreed that the City expressly relies upon the facts, data, and representations contained in the Application, attached hereto as Exhibit 3, in granting this tax exemption.

Section 1.2 General Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement, the following terms shall have the following meanings:

i. Allowable Net Profit- The amount arrived at by applying the Allowable Profit Rate to Total Project Cost pursuant to N.J.S.A. 40A:20-3(c).

ii. Allowable Profit Rate - The greater of 12% or the percentage per annum arrived at by adding 1.25% to the annual interest percentage rate payable on the Entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing, or if the financing is internal or undertaken by a related party, the Allowable Profit Rate shall be the greater of 12% or the percentage per annum arrived at by adding 1.25% per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in Hudson County. The provisions of N.J.S.A. 40A:20-3(b) are incorporated herein by reference.

iii. Annual Gross Revenue Any and all revenue derived from or generated by the Project of whatever kind or amount, whether received as rent by the Entity from any tenants or income or fees from third parties, including but not limited to fees or income paid or received for parking, or as user fees or for any other services. Annual Gross Revenue shall include all gross revenue of the hotel operator generated by the Project.

iv. Annual Service Charge - The amount the Entity has agreed to pay the City each year for municipal services supplied to the Project, which sum is in lieu of any taxes on the Improvements, pursuant to N.J.S.A. 40A:20-12. It shall include a payment for all Excess Net Profit due annually.

v. Auditor's Report - A complete annual financial statement outlining the financial status of the Project, which shall also include a certification of Total Project Cost and clear computation of the annual Net Profit. The contents of the Auditor's Report shall have been prepared in conformity with generally accepted accounting principles and shall contain at a minimum the following: a balance sheet, a statement of income, a statement of retained earnings or changes in stockholders' equity, a statement of cash flows, descriptions of accounting policies, notes to financial statements and appropriate schedules and explanatory material results of operations, cash flows and any other items required by Law. The Auditor's Report shall be

certified as to its conformance with such principles by a certified public accountant licensed to practice in the State of New Jersey.

vi. Certificate of Occupancy - A document, whether temporary or permanent, issued by the City authorizing occupancy of a building, in whole or in part, pursuant to N.J.S.A. 52:27D-133.

vii. Debt Service - The amount required to make annual payments of principal and interest or the equivalent thereof on any construction mortgage, permanent mortgage or other financing including returns on institutional equity financing and market rate related party debt, for the Project for a period equal to the term of this Agreement.

viii. Default - Shall be a breach of or the failure of the Entity to perform any obligation imposed upon the Entity by the terms of this Agreement, or under the Law, beyond any applicable grace or cure periods.

ix. Entity - The term Entity within this Agreement shall mean Columbus Hotel Urban Renewal, LLC, which Entity is formed and qualified pursuant to N.J.S.A. 40A:20-5. It shall also include any subsequent purchasers or successors in interest of the Project, provided they are formed and operate under the Law.

x. Excess Net Profits - An amount equal to the positive difference, if any, of the Net Profit minus the Allowable Net Profit payable annually.

xi. Improvements or Project - Any building, structure or fixture permanently affixed to the land and to be constructed, rehabilitated or maintained and tax exempted under this Agreement.

xii. In Rem Tax Foreclosure or Tax Foreclosure - A summary proceeding by which the City may enforce a lien for taxes due and owing by tax sale, under N.J.S.A. 54:5-1 to 54:5-129 et seq.

xiii. Land Taxes - If applicable, the amount of taxes assessed on the value of land on which the Project is located and taxes on any pre-existing improvements. The Entity's Land Tax assessment reflects its pro-rata share of the common elements of the Property, including the land, which pro-rata share at the time of adoption of the herein Ordinance is thirty-three and one-third

percent (33 1/3%) interest share, pursuant to the terms of the Master Deed as recorded. If Land Taxes are not exempt; however, Land Taxes are applied as a credit against the Annual Service Charge.

xiv. Land Tax Payments - Payments made on the quarterly due dates, including approved grace periods if any, for Land Taxes as determined by the Tax Assessor and the Tax Collector.

xv. Law - Law shall refer to the Long Term Tax Exemption Law, as amended and supplemented, N.J.S.A. 40A:20-1, et seq.; Executive Order of the Mayor 2013-004, relating to long term tax exemption, as it may be supplemented; Ordinance 02-075 requiring Disclosure of Lobbyist Status and Ordinance 14-069, which authorized the execution of this Agreement and all other relevant Federal, State or City statutes, ordinances, resolutions, rules and regulations.

xvi. Minimum Annual Service Charge - The Minimum Annual Service Charge shall be the greater of: (a) the amount of the total taxes levied against all real property in the area covered by the Project in the last full tax year in which the area was subject to taxation, which amount the parties agree is \$34,696; or (b) the sum of \$501,041 per year, which sum is equal to the estimated Annual Service Charge and will be due 12 months following Substantial Completion of the Project.

Following Substantial Completion, the Minimum Annual Service Charge set forth in subsection (b) shall be paid in each year in which the Annual Service Charge, calculated pursuant to N.J.S.A. 40A:20-12 and this Agreement, would be less than the Minimum Annual Service Charge.

xvii. Net Profit - The Annual Gross Revenues of the Entity less all annual operating and non-operating expenses of the Entity, all determined in accordance with generally accepted accounting principles, but:

(1) there shall be included in expenses: (a) all Annual Service Charges paid pursuant to N.J.S.A. 40A:20-12; (b) all annual payments to the City of Excess Profits pursuant to N.J.S.A. 40A:20-15 or N.J.S.A. 40A:20-16; (c) an annual amount sufficient to amortize (utilizing the straight line method-equal annual amounts) the Total Project Cost and all capital costs determined in accordance with generally accepted accounting principles, of any other entity whose revenue is

included in the computation of excess profits over the term of this agreement; (d) all reasonable annual operating expenses of the Entity and any other entity, including the hotel operator, whose revenue is included in the computation of excess profits including, the cost of all management fees, brokerage commissions, insurance premiums, all taxes or service charges paid, legal, accounting, or other professional service fees, utilities, building maintenance costs, building and office supplies and payments into repair or maintenance reserve accounts; and (e) all payments of rent including but not limited to ground rent by the Entity; (f) all Debt Service; and

(2) there shall not be included in expenses either depreciation or obsolescence, interest on debt, except interest which is part of Debt Service, income taxes or salaries, bonuses or other compensation paid, directly or indirectly to directors, officers and stockholders of the entity, or officers, partners or other persons holding a proprietary ownership interest in the entity, other than institutional returns on equity as may be included in Debt Service.

xviii. Pronouns - He or it shall mean the masculine, feminine or neuter gender, the singular, as well as the plural, as context requires.

xix. Substantial Completion - The determination by the City that the Project, in whole or in part, is ready for the use intended, which ordinarily shall mean the first date on which the Project receives, or is eligible to receive, any Certificate of Occupancy whether temporary or permanent for any portion of the Project.

xx. Termination - Any act or omission which by operation of the terms of this Financial Agreement shall cause the Entity to relinquish its tax exemption.

xxi. Total Project Cost - The Entity's total cost of constructing the Project through the date a Certificate(s) of Occupancy is issued for the entire Project, which includes all categories of costs set forth in N.J.S.A. 40A:20-3(h). The Project's actual construction costs, which are an element of Total Project Costs, will be defined according to the industry standard set forth by Marshall & Swift, in its Marshall Valuation Service, and shall include all elements enumerated in Marshall's Section 41, "Segregated Cost Method/Segregated Costs" and includes all concrete work (slab, floors, stairs), structural steel frame and associated fireproofing, roofing, exterior wall system and windows, entrance doors, elevators with drywall enclosure, plumbing (vertical risers only), HVAC (hallways only), sprinklers, common area bathroom facilities, electrical closets on

each floor and the loading dock area. Interior costs attributable solely to the hotel operator shall not be included. There shall be included in Total Project Cost for the purpose of calculating the Annual Service Charge the actual costs incurred by the Entity and certified by an independent and qualified architect or engineer, which are associated with site remediation and cleanup of environmentally hazardous materials or contaminants in accordance with State or Federal law. Since the Annual Service Charge is a percentage of Total Project Cost, the Entity agrees that final Total Project Cost shall not be less than its estimated Total Project Cost.

ARTICLE II - APPROVAL

Section 2.1 Approval of Tax Exemption

The City hereby grants its approval for a tax exemption for all the Improvements to be constructed, rehabilitated and maintained in accordance with the terms and conditions of this Agreement and the provisions of the Law which Improvements shall be constructed on certain property known on the Official Tax Assessor's Map of the City as: Block 13003, Lot 1, C.380, more commonly known by the street address 80 Columbus Drive, Jersey City, and described by metes and bounds in Exhibit 1 attached hereto.

Section 2.2 Approval of Entity

Approval is granted to the Entity whose Certificate of Formation is attached hereto as Exhibit 4. Entity represents that its Certificate contains all the requisite provisions of the Law; has been reviewed and approved by the Commissioner of the Department of Community Affairs; and has been filed with, as appropriate, the Office of the State Treasurer or Office of the Hudson County Clerk, all in accordance with N.J.S.A. 40A:20-5.

Section 2.3 Improvements to be Constructed

Entity represents that it will construct a fourteen (14) story building to develop a commercial hotel project consisting of approximately 152 rooms (Residence Inn) for a total of approximately 91,759 square feet, to be constructed on partly vacant land and air rights over the existing Grove Street PATH station located on the corner of Christopher Columbus Drive and Marin Boulevard; all of which is specifically described in the Application attached hereto as Exhibit 3.

Section 2.4 Construction Schedule

The Entity agrees to make good faith, diligent and commercially reasonable efforts to commence construction and complete the Project in accordance with the Estimated Construction Schedule, attached hereto as Exhibit 5. Completion of construction shall occur no later than two (2) years from the date of adoption of the Ordinance.

Section 2.5 Ownership, Management and Control

The Entity represents that it is the owner of the property upon which the Project is to be constructed. Upon construction, the Entity represents that the Improvements will be used, managed and controlled for the purposes set forth in this Agreement and the redevelopment plan.

The Project was created by virtue of a Master Deed of 100 Columbus Condominium dated November 5, 2005, and recorded in the Hudson County Register's Office on December 12, 2005, Book 7752, Page 198, as amended on April 27, 2006, in Book 7877, Page 148, and as further amended on July 12, 2013, and recorded on July 15, 2013 in Book 8920, Page 367. The Project, referred to as Condo Unit 3B, includes "Air Rights" over the existing Lot 2 in Block 13003, over the entrance to the Grove Street PATH Station. Condo Unit 3B has an undivided 33 1/3 % interest in the common elements of the Condominium Unit, created by the Master Deed as recorded.

The Entity shall not amend the Master Deed during the term of the abatement without prior written notice to the City, and shall not amend or alter the Master Deed in a manner that would alter the Entity's share of the Land Tax or reduce the Service Charge to the City.

Section 2.6 Financial Plan

The Entity represents that the Improvements shall be financed in accordance with the Financial Plan attached hereto as Exhibit 6. The Plan sets forth a good faith estimate of Total Project Cost, the amortization rate on the Total Project Cost, the source of funds, the interest rates to be paid on construction financing, the source and amount of paid-in capital, the terms of any mortgage amortization and Debt Service.

Section 2.7 Good Faith Estimate of Initial Rents

The Entity represents that its good faith projections of the initial rents and other revenue to the Project are set forth in Exhibit 7.

ARTICLE III - DURATION OF AGREEMENT

Section 3.1 Term

So long as there is compliance with the Law and this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for the earlier of 25 years from the date of the adoption of Ordinance 14-____ on _____, 2014, which approved the tax exemption or 20 years from the original date of Substantial Completion of the Project. The tax exemption shall only be effective during the period of usefulness of the Project and shall continue in force only while the Project is owned by a corporation or association formed and operating under the Law.

ARTICLE IV - ANNUAL SERVICE CHARGE

Section 4.1 Annual Service Charge

In consideration of the tax exemption, the Entity shall make the following annual payments to the City for services provided to the Project:

i. Annual Service Charge: an amount equal to the greater of the Minimum Annual Service Charge or the Annual Service Charge as calculated pursuant to Section 4.2 hereof. The Annual Service Charge shall be billed initially based upon the Entity's estimates of Total Project Cost, attached hereto as Exhibit 6. Thereafter, the Annual Service Charge shall be adjusted in accordance with this Agreement.

ii. County Service Charge: an amount equal to 5% of the Annual Service Charge shall be paid to the City and remitted by the City to the County.

iii. The Minimum Annual Service Charge pursuant to Section 1.2xvi(a) shall be due beginning on the effective date of this Agreement and payable in accordance with Section 4.4 hereof. The Minimum Annual Service Charge pursuant to Section 1.2xvi(b) shall be due 12 months following Substantial Completion of the Project. The Annual Service Charge and the County Service Charge shall be due on the first day of the month following the Substantial Completion of the Project and payable in accordance with Section 4.4 hereof. In the event the Entity fails to timely pay the Minimum Annual Service Charge or the Annual Service Charge, the

unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on land until paid.

Section 4.2 Staged Adjustments

The Annual Service Charge shall be adjusted, in Stages over the term of the tax exemption in accordance with N.J.S.A. 40A:20-12(b) as follows:

- i. Stage One: From the 1st day of the month following Substantial Completion until the last day of the 6th year, the Annual Service Charge shall be 2% of Total Project Cost;
- ii. Stage Two: Beginning on the 1st day of the 7th year following Substantial Completion until the last day of the 9th year, an amount equal to the greater of the Annual Service Charge or 20% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;
- iii. Stage Three: Beginning on the 1st day of the 10th year following the Substantial Completion until the last day of the 14th year, an amount equal to the greater of the Annual Service Charge or 40% of the amount of the taxes otherwise due on the assessed value of the land and Improvements;
- iv. Stage Four: Beginning on the 1st day of the 15th year following Substantial Completion until the last day of the 18th year, an amount equal to the greater of the Annual Service Charge or 60% of the amount of the taxes otherwise due on the assessed value of the land and Improvements.
- v. Final Stage: Beginning on the 1st day of the 19th year following Substantial Completion through the date the tax exemption expires, an amount equal to the greater of the Annual Service Charge or 80% of the amount of the taxes otherwise due on the assessed value of the land and Improvements.

Section 4.3 Land Tax

The Entity is required to pay both the Annual Service Charge and the Land Tax Payments. The Entity is obligated to make timely Land Tax Payments, including any tax on the pre-existing improvements, in order to be entitled to a Land Tax credit against the Annual Service Charge for the subsequent year. The Entity shall be entitled to credit for the amount, without interest, of the

Land Tax Payments made in the last four preceding quarterly installments against the Annual Service Charge. The Entity shall be entitled to a Land Tax Credit equal to only its pro-rata share of the Condominium Unit, as allocated in the Master Deed to the Project identified therein as Unit Three a/k/a Condo Unit 3B, which at the time of adoption of the herein Ordinance is an undivided thirty-three and one third percent (33 1/3%) interest. The Entity shall not amend the Master Deed during the term of the abatement, except as set forth in Section 2.5 of this Agreement. In any quarter that the Entity fails to make any Land Tax Payments when due and owing, such delinquency shall render the Entity ineligible for any Land Tax Payment credit against the Annual Service Charge. No credit will be applied against the Annual Service Charge for a partial payment of Land Taxes. In addition, the City shall have, among this remedy and other remedies, the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. and/or declare a Default and terminate this Agreement.

Section 4.4 Quarterly Installments / Interest

The Entity expressly agrees that the Annual Service Charge and the Minimum Annual Service Charge pursuant to Section 1.2xvi(a), as applicable, shall be made in quarterly installments on those dates when real estate tax payments are due; subject, nevertheless, to adjustment for over or underpayment within thirty (30) days after the close of each calendar year. In the event that the Entity fails to pay the Annual Service Charge or any other charge due under this agreement, the unpaid amount shall bear the highest rate of interest permitted in the case of unpaid taxes or tax liens on the land until paid in full.

Section 4.5 Administrative Fee

The Entity shall also pay an annual Administrative Fee to the City in addition to the Annual Service Charge and Land Tax levy. The Administrative Fee shall be calculated as half of one (0.5%) percent of each prior year's Annual Service Charge. This fee shall be payable and due on or before December 31st of each year, and collected in the same manner as the Annual Service Charge.

Section 4.6 Affordable Housing Contribution and Remedies

A. **Contribution.** The Entity will pay the City the sum of \$137,639 or \$1.50 per square foot of hotel and retail space as a contribution. The sum shall be due and payable as follows:

- i. 1/3 on or before the effective adoption date of the Ordinance approving the tax exemption;
- ii. 1/3 on or before the issuance of the first of any construction permit for the Project, but no later than six months after the date of the Financial Agreement; and
- iii. 1/3 on or before the date the first of any Certificate of Occupancy is issued for the Project, but no later than twenty-four (24) months after the date of the Financial Agreement.

Section 4.7 Material Conditions

It is expressly agreed and understood that the timely payments of Land Taxes, Minimum Annual Service Charges, Annual Service Charges, including Excess Net Profits and any adjustments thereto, Administrative Fees, Affordable Housing Contributions, and any interest thereon, are Material Conditions of this Agreement.

ARTICLE V - PROJECT EMPLOYMENT AND CONTRACTING AGREEMENT

Section 5.1 Project Employment and Contracting Agreement

In order to provide City residents and businesses with certain employment and other economic related opportunities, the Entity is subject to the terms and conditions of the Project Employment and Contracting Agreement, attached hereto as Exhibit 8.

Section 5.2 Project Labor Agreement

The Entity has agreed to waive the \$25,000,000 threshold as required by Section 304-33 of the Jersey City Municipal Code and shall execute a Project Labor Agreement as it exists or as it may be amended from time to time.

Section 5.3 Living Wage Mandate

The Entity also agrees to comply with the requirements of Section 3-76 of the Jersey City Municipal Code concerning required wage, benefit and leave standards for building service workers. All janitors and unarmed security guards employed at the Projects, including by any and all tenants or subtenants of the developer, shall not be paid less than the standard hourly rate of pay and benefits for their respective classifications and shall be provided with paid leave in accordance

with the provisions of the Jersey City Municipal Code Section 3-51G(1).

ARTICLE VI - CERTIFICATE OF OCCUPANCY

Section 6.1 Certificate of Occupancy

It is understood and agreed that it shall be the obligation of the Entity to obtain all Certificates of Occupancy in a timely manner so as to complete construction in accordance with the proposed construction schedule attached hereto as Exhibit 5.

Section 6.2 Filing of Certificate of Occupancy

It shall be the primary responsibility of the Entity to forthwith file with both the Tax Assessor and the Tax Collector a copy of each Certificate of Occupancy.

Failure of the Entity to file such issued Certificate of Occupancy as required by the preceding paragraph, shall not militate against any action or non-action, taken by the City, including, if appropriate retroactive billing with interest for any charges determined to be due, in the absence of such filing by the Entity.

Section 6.3 Construction Permits

The estimated construction cost disclosed by the Entity's application and proposed Financial Agreement may, at the option of the City, be used as the basis for the construction cost in the issuance of any construction permit for the Project.

ARTICLE VII - ANNUAL REPORTS

Section 7.1 Accounting System

The Entity agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles.

Section 7.2 Periodic Reports

A. Auditor's Report: Within ninety (90) days after the close of each fiscal or calendar year, depending on the Entity's accounting basis that the Agreement shall continue in effect, the Entity shall submit to the Mayor and Municipal Council and the NJ Division of Local Government Services in the Department of Community Affairs, its Auditor's Report for the preceding fiscal or calendar year. The Auditor's Report shall include, but not be limited to all gross revenue generated by the Project, and the terms and interest rate on any mortgage(s) associated with the

purchase or construction of the Project and such details as may relate to the financial affairs of the Entity and to its operation and performance hereunder, pursuant to the Law and this Agreement. The Auditor's Report shall include a schedule reporting the gross revenue of the hotel operator. The Report shall clearly identify and calculate the Net Profit for the Entity during the previous year, which shall include the gross revenue of the hotel operator, the excess of which shall be paid to the City each year to the extent Excess Profit is generated. The Entity shall also provide annually a separate Audited Financial Statement reporting revenue of the hotel operator.

B. Total Project Cost Audit: Within ninety (90) days after Substantial Completion of the Project, the Entity shall submit to the Mayor, Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, an audit of Total Project Cost, including but not limited to an audit of actual construction costs as certified by the Project architect.

C. Disclosure Statement: On the anniversary date of the execution of this Agreement, and each and every year thereafter while this agreement is in effect, the Entity shall submit to the Municipal Council, the Tax Collector and the City Clerk, who shall advise those municipal officials required to be advised, a Disclosure Statement listing the persons having an ownership interest in the Project, and the extent of the ownership interest of each and such additional information as the City may request from time to time. All disclosures shall include ownership interests of the individual persons owning any corporate interest in the Entity, provided however, to the extent that any owner shall be a publicly traded company or a private investment fund or trust, this Section 7.2C shall only be applicable to such owners having more than a 10% interest in the Entity.

Section 7.3 Inspection/Audit

The Entity shall permit the inspection of its property, equipment, buildings and other facilities of the Project and, if deemed appropriate or necessary, any other related Entity by representatives duly authorized by the City or the NJ Division of Local Government Services in the Department of Community Affairs. It shall also permit, upon request, examination and audit of its books, contracts, records, documents and papers. Such examination or audit shall be made during the reasonable hours of the business day, in the presence of an officer or agent designated

by the Entity for any year during which the tax exemption financial agreement was in full force and effect.

All reasonable out-of-pocket costs incurred by the City to conduct a third party audit of the Entity's audits, including an audit of actual Total Project Cost (construction costs), including reasonable attorneys' fees if appropriate, shall be billed to the Entity and paid to the City as part of the Entity's Annual Service Charge. Delinquent payments shall accrue interest at the same rate as for a delinquent service charge.

ARTICLE VIII- LIMITATION OF PROFITS AND RESERVES

Section 8.1 Limitation of Profits and Reserves

During the period of tax exemption as provided herein, the Entity shall be subject to a limitation of its profits pursuant to the provisions of N.J.S.A. 40A:20-15.

The Entity shall have the right to establish a reserve against vacancies, unpaid rentals, and reasonable contingencies in an amount equal to five (5%) percent of the Gross Revenue of the Entity, which shall also include all gross revenue of the hotel operator, for the last full fiscal year preceding the year and may retain such part of the Excess Net Profits as is necessary to eliminate a deficiency in that reserve, as provided in N.J.S.A. 40A:20-15. The reserve is to be non-cumulative, it being intended that no further credits thereto shall be permitted after the reserve shall have attained the allowable level of five (5%) percent of the preceding year's Gross Revenue.

Section 8.2 Annual Payment of Excess Net Profit

In accordance with N.J.S.A. 40A:20-15, in the event the Net Profits of the Entity exceeds the Allowable Net Profit then the Entity, within one hundred and twenty (120) days after the end of any such year, shall pay such Excess Net Profits to the City as an additional annual service charge; provided, however, that the Entity may maintain a reserve as determined pursuant to aforementioned paragraph 8.1. The calculation of the Entity's Excess Net Profits shall include those project costs directly attributable to site remediation and cleanup expenses and any other costs excluded in the definition of Total Project Cost in Section 1.2 (xxi) of this Agreement even though those costs may have been deducted from the project costs for purposes of calculating the annual service charge.

Section 8.3 Payment of Reserve/ Excess Net Profit Upon Termination, Expiration or Sale

The date of termination, expiration or sale shall be considered to be the close of the fiscal year of the Entity. Within ninety (90) days after such date, the Entity shall pay to the City the amount of the reserve, if any, maintained by it pursuant to this section and the balance of the Excess Net Profit, if any.

ARTICLE IX - ASSIGNMENT AND/OR ASSUMPTION

Section 9.1 Approval of Sale

It is understood and agreed that the City, on written application by the Entity, will not withhold its consent to a sale, transfer or conveyance of the Project and assignment of this Agreement provided 1) the new Entity does not own any other Project subject to long term tax exemption at the time of transfer; 2) the new Entity is formed and eligible to operate under the Law; 3) the Entity is not then in default of this Agreement or the Law; 4) the Entity's obligations under this Agreement are fully assumed by the new Entity in writing in a commercially reasonable form; 5) the Entity pays the City in full the maximum transfer fee, 2% of the Annual Service Charge, as permitted by N.J.S.A. 40A:20-10(d); and (6) as to projects that are not Substantially Complete, the Entity is comprised of principals possessing substantially the same or better financial qualifications and credit worthiness as the Entity.

Nothing herein shall prohibit any transfer of an ownership interest in the Entity itself provided that the transfer, if greater than 10%, is disclosed to the City in the annual disclosure statement or in correspondence sent to the City in advance of the filing of the annual disclosure statement.

In the event that the Entity shall terminate this Agreement prior to, in connection with or contingent upon, any sale, transfer or conveyance of the Project, this Section 9.1 shall not be applicable.

Section 9.2 Transfer Application Fee

Where the consent or approval of the City is sought for approval of a change in ownership or sale or transfer of the Project, the Entity shall be required to pay to the City a new tax exemption application fee for the legal and administrative services of the City, as it relates to the review,

preparation and/or submission of documents to the Municipal Council for appropriate action on the requested assignment. The fee shall be non-refundable.

ARTICLE X - COMPLIANCE

Section 10.1 Operation

During the term of this Agreement, the Project shall be maintained and operated in accordance with the provisions of the Law. Operation of Project under this Agreement shall not only be terminable as provided by N.J.S.A. 40A:20-1, et seq., as amended and supplemented, but also by a Default under this Agreement. The Entity's failure to comply with the Law shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

Section 10.2 Disclosure of Lobbyist Representative

During the term of this Agreement, the Entity must comply with Executive Order 2002-005, and Ordinance 02-075, requiring Written Disclosure of Lobbyist Representative Status. The Entity's failure to comply with the Executive Order or the Ordinance shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate the tax exemption.

ARTICLE XI - DEFAULT

Section 11.1 Default

Default shall be failure of the Entity to conform with the terms of this Agreement or failure of the Entity to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

Section 11.2 Cure Upon Default

Should the Entity be in Default, the City shall send written notice to the Entity of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default. The Entity shall have thirty (30) days, from receipt of the Default Notice, to cure any Default which shall be the sole and exclusive remedy available to the Entity. However, if, in the reasonable opinion of the City, the Default cannot be cured within thirty (30) days using reasonable diligence, the City will extend the time to cure.

Subsequent to such thirty (30) days, or any approved extension, the City shall have the right to terminate this Agreement in accordance with Section 12.1.

Should the Entity be in default due to a failure to pay any charges defined as Material Conditions in Section 4.7, the Entity shall not be subject to the default procedural remedies as provided herein but shall allow the City to proceed immediately to terminate the Agreement as provided in Article XII herein.

Section 11.3 Remedies Upon Default

The City shall, among its other remedies, have the right to proceed against the property pursuant to the In Rem Tax Foreclosure Act, N.J.S.A. 54:5-1, et seq. In order to secure the full and timely payment of the Annual Service Charge, the City reserves the right to prosecute an In Rem Tax Foreclosure action against the Project Area in accordance with Applicable Law, as more fully set forth in this Financial Agreement.

In addition, the City may declare a Default and terminate this Agreement. Any default arising out of the Entity's failure to pay Land Taxes, the Minimum Annual Service Charge, Administrative Fees, Affordable Housing Contribution, or the Annual Service Charges shall not be subject to the default procedural remedies as provided herein, but shall allow the City to proceed immediately to terminate the Agreement as provided herein. All of the remedies provided in this Agreement to the City, and all rights and remedies granted to it by law and equity shall be cumulative and concurrent. No termination of any provision of this Agreement shall deprive the City of any of its remedies or actions against the Entity because of its failure to pay Land Taxes, the Minimum Annual Service Charge, Annual Service Charge, Affordable Housing Contribution or Administrative Fees. This right shall apply to arrearages that are due and owing at the time or which, under the terms hereof, would in the future become due as if there had been no termination. Further, the bringing of any action for Land Taxes, the Minimum Annual Service Charge, the Annual Service Charge, Affordable Housing Contribution, Administrative Fees, or for breach of covenant or the resort to any other remedy herein provided for the recovery of Land Taxes shall not be construed as a waiver of the rights to terminate the tax exemption or proceed with a tax sale or Tax Foreclosure action or any other specified remedy.

In the event of a Default on the part of the Entity to pay any charges set forth in Article IV, the City among its other remedies, reserves the right to proceed against the Entity's land and property, in the manner provided by the In Rem Foreclosure Act, and any act supplementary or amendatory thereof. Whenever the word taxes appear, or is applied, directly or impliedly to mean taxes or municipal liens on land, such statutory provisions shall be read, as far as is pertinent to this Agreement, as if the charges were taxes or municipal liens on land.

ARTICLE XII- TERMINATION

Section 12.1 Termination Upon Default of the Entity

In the event the Entity fails to cure or remedy the Default within the time period provided in Section 11.2, the City may terminate this Agreement upon thirty (30) days written notice to the Entity [Notice of Termination].

Section 12.2 Voluntary Termination by the Entity

The Entity may notify the City that it will relinquish its status as a tax exempt Project, after the expiration of one year from the Substantial Completion of the Project , as of the January 1st of the year next ensuing. The Notice of Voluntary Termination must be received by the City no later than October 1st of the tax year preceding the calendar year in which the termination is to occur. As of the date so set, the tax exemption, the Annual Service Charges and the profit and dividend restrictions shall terminate. However, under no circumstances will the Entity be entitled to any refund, in whole or in part, of any funds paid to the City to obtain the tax exemption, including but not limited to the Affordable Housing Contribution.

Section 12.3 Final Accounting

Within ninety (90) days after the date of termination, whether by affirmative action of the Entity or by virtue of the provisions of the Law or pursuant to the terms of this Agreement, the Entity shall provide a final accounting and pay to the City the reserve, if any, pursuant to the provisions of N.J.S.A. 40A:20-13 and 15 as well as any remaining Excess Net Profits. For purposes of rendering a final accounting the termination of the Agreement shall be deemed to be the end of the fiscal year for the Entity.

Section 12.4 Conventional Taxes

Upon Termination or expiration of this Agreement, the tax exemption for the Project shall expire and the land and the Improvements thereon shall thereafter be assessed and conventionally taxed according to the general law applicable to other nonexempt taxable property in the City.

ARTICLE XIII - DISPUTE RESOLUTION

Section 13.1 Arbitration

In the event of a breach of the within Agreement by either of the parties hereto or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party may apply to the Superior Court of New Jersey by an appropriate proceeding, to settle and resolve the dispute in such fashion as will tend to accomplish the purposes of the Law. In the event the Superior Court shall not entertain jurisdiction, then the parties shall submit the dispute to the American Arbitration Association in New Jersey to be determined in accordance with its rules and regulations in such a fashion to accomplish the purpose of the Long Term Tax Exemption Law. The cost for the arbitration shall be borne by the Entity. The parties agree that the Entity may not file an action in Superior Court or with the Arbitration Association unless the Entity has first paid in full all charges defined in Section 4.7 as Material Conditions.

Section 13.2 Appeal of Assessment

In calculating the amount of the Staged Adjustments that is, taxes otherwise due, pursuant to Section 4.2 and N.J.S.A. 40A:20-12, either party may file an appeal of the conventional assessment to determine the value of land and improvements.

ARTICLE XIV - WAIVER

Section 14.1 Waiver

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement and tax exemption for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit the City's right to audit or recover any amount which the City has under law, in equity, or under any provision of this Agreement.

ARTICLE XV - INDEMNIFICATION

Section 15.1 Defined

It is understood and agreed that in the event the City shall be named as party defendant in any action by a third party alleging any breach, default or a violation of any of the provisions of this Agreement and/or the provisions of N.J.S.A. 40A:20-1 et seq. as it relates to the Project, the Entity shall indemnify and hold the City harmless against any and all liability, loss, cost, expense (including reasonable attorneys' fees and costs), arising exclusively out of this Agreement. In addition, the Entity expressly waives all statutory or common law defenses or legal principles which would defeat the purposes of this indemnification. The Entity also agrees to defend the suit at its own expense. However, the City maintains the right to intervene as a party thereto, to which intervention the Entity consents; the expense thereof to be borne by the City.

ARTICLE XVI- NOTICE

Section 16.1 Certified Mail

Any notice required hereunder to be sent by either party to the other shall be sent by certified or registered mail, return receipt requested.

Section 16.2 Sent by City

When sent by the City to the Entity the notice shall be addressed to both:

Columbus Hotel Urban Renewal, LLC
Harborside Financial Center
Plaza 10 - Suite 1203
3 Second Street
Jersey City, NJ 07311

And

Connell Foley, LLP
Harborside Financial Center
2510 Plaza Five
Jersey City, NJ 07311
Attn: Charles Harrington, III, Esq.

unless prior to giving of notice the Entity shall have notified the City in writing otherwise.

In addition, provided the City is sent a formal written notice in accordance with this Agreement, of the name and address of Entity's Mortgagee, the City agrees to provide such Mortgagee with a copy of any notice required to be sent to the Entity.

Section 16.3 Sent by Entity

When sent by the Entity to the City, it shall be addressed to:

City of Jersey City, Office of the City Clerk
City Hall
280 Grove Street
Jersey City, New Jersey 07302,

with copies sent to the Corporation Counsel, the Business Administrator, and the Tax Collector unless prior to the giving of notice, the City shall have notified the Entity otherwise. The notice to the City shall identify the Project to which it relates, (i.e., the Urban Renewal Entity and the Property's Block and Lot number).

ARTICLE XVII-SEVERABILITY

Section 17.1 Severability

If any term, covenant or condition of this Agreement or the Application, except a Material Condition, shall be judicially declared to be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

If a Material Condition shall be judicially declared to be invalid or unenforceable and provided the Entity is not in Default of this Agreement, the parties shall cooperate with each other to take the actions reasonably required to restore the Agreement in a manner contemplated by the parties and the Law. This shall include, but not be limited to the authorization and re-execution of this Agreement in a form reasonably drafted to effectuate the original intent of the parties and the Law. However, the City shall not be required to restore the Agreement if it would modify a Material Condition, the amount of the periodic adjustments or any other term of this Agreement which would result in any economic reduction or loss to the City.

ARTICLE XVIII - MISCELLANEOUS

Section 18.1 Construction

This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

Section 18.2 Conflicts

The parties agree that in the event of a conflict between the Application and the language contained in the Agreement, the Agreement shall govern and prevail. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

Section 18.3 Oral Representations

There have been no oral representations made by either of the parties hereto which are not contained in this Agreement. This Agreement, the Ordinance authorizing the Agreement, and the Application constitute the entire Agreement between the parties and there shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

Section 18.4 Entire Document

This Agreement and all conditions in the Ordinance of the Municipal Council approving this Agreement are incorporated in this Agreement and made a part hereof.

Section 18.5 Good Faith

In their dealings with each other, utmost good faith is required from the Entity and the City.

Section 18.6 Pending Litigation

The Entity fully and freely holds the City harmless and assumes any risk that may effect the present or future validity of the within financial agreement, arising from any other litigation.

ARTICLE XIX - EXHIBITS

Section 19 Exhibits

The following Exhibits are attached hereto and incorporated herein as if set forth at length herein:

1. Metes and Bounds description of the Project;
2. Ordinance of the City authorizing the execution of this Agreement;
3. The Application with Exhibits;
4. Certificate of the Entity;
5. Estimated Construction Schedule;
6. The Financial Plan for the undertaking of the Project;
7. Good Faith Estimate of Initial Rents;
8. Project Employment and Contracting Agreement;
9. Architect's Certification of Actual Construction Costs.
10. Entity's Deed

IN WITNESS WHEREOF, the parties have caused these presents to be executed the day and year first above written.

WITNESS:

**COLUMBUS HOTEL
URBAN RENEWAL, LLC**

ATTEST:

CITY OF JERSEY CITY

**ROBERT BYRNE
CITY CLERK**

**ROBERT J. KAKOLESKI
BUSINESS ADMINISTRATOR**

80 COLUMBUS HOTEL

1. Ownership disclosure certification
2. Fiscal Impact Cost Projection
3. Good Faith estimate of rental income/condo
4. Projected construction costs
5. Schedule of ASC over the abatement*
6. Tax Assessor spreadsheet
7. Projection of sales price for condos (n/a)
8. Memorandum from Al Cameron to the Law Department
9. Financial Agreement (attached to the Ordinance)

*When dealing with tax exemptions approved under the Five Year Tax Exemption statute, the Tax Assessor's spreadsheet includes a schedule of both the ASC and conventional taxes, accordingly a separate schedule is duplicative and is therefore not included

RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

ordinance approving a twenty (20) year tax exemption for a commercial hotel project to be constructed by Columbus Hotel Urban Renewal LLC , pursuant to the provisions of the long term tax exemption law NJSA 40A:20-1 et seq for the property designated as Block 13003 Lot 1 C3.80on the city tax map

Initiator

Department/Division	office of the Mayor	
Name/Title	Brian Platt	
Phone/email	201-547-5200	bplatt@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Resolution Purpose

Columbus Hotel Urban Renewal LLC has applied for a 20 year long term tax exemption to construct a 14 story hotel with approximately 152 rooms for a total of 91,759 square feet.

This abatement application meets all the standards present in the Mayor's Executive Order concerning Long Term Tax Exemptions, commonly known as abatements.

I certify that all the facts presented herein are accurate.

Signature of Department Director

Date

EXHIBIT F

COLUMBUS HOTEL URBAN RENEWAL, L.L.C. Disclosure Statement

NAME OF ENTITY: Columbus Hotel Urban Renewal, L.L.C.
Harborside Financial Center
Plaza 10, Suite 1203
3 Second Street
Jersey City, New Jersey 07311

LOCATION OF PROJECT: Known as Block 13003, Lot 1, C3.80
80 Columbus Drive
Jersey City, New Jersey

PRINCIPAL PLACE OF BUSINESS: Harborside Financial Center
Plaza 10, Suite 1203
3 Second Street
Jersey City, New Jersey 07311

NAME OF REGISTERED AGENT: Joseph A. Panepinto, Jr

ADDRESS: Harborside Financial Center
Plaza 10, Suite 1203
3 Second Street
Jersey City, New Jersey 07311

NAME	ADDRESS	PERCENT OWNED
80 Columbus Co., LLC	Harborside Financial Center Plaza 10, Suite 1203 3 Second Street Jersey City, NJ 07311	100%

The sole member of 80 Columbus Co., LLC is as follows:

NAME	ADDRESS	PERCENT OWNED
70-90 Columbus Holding Co., LLC	Harborside Financial Center Plaza 10, Suite 1203 3 Second Street Jersey City, NJ 07311	100%

The members of 70-90 Columbus Holding Co., LLC are as follows:

NAME	ADDRESS	PERCENT OWNED
1. Panepinto Family Realty, LLC ("Panepinto")	Harborside Financial Center Plaza 10, Suite 1203 3 Second Street Jersey City, NJ 07311	25%
2. KL 70-90 Columbus, L.L.C. ("KL")	28 Clinton Street Newark, NJ 07102	25%
3. FJG Columbus 70-90, LLC ("FJG")	30 Montgomery Street 15 th Floor Jersey City, NJ 07302	25%
4. Ironstate Holdings, LLC ("Ironstate")	5 Marineview Plaza Hoboken, NJ 07030	25%

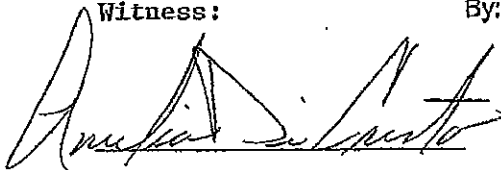
I CERTIFY THAT THE FOLLOWING LIST REPRESENTS THE NAMES OF ALL MEMBERS OWNING A 10% OR GREATER INTEREST IN THE ABOVE ENTITY (IF ONE OR MORE OF THE ABOVE NAMED IS ITSELF AN ENTITY, THE APPLICANT WILL PROVIDE THE NAMES OF ANY ENTITY OWNING A 10% OR GREATER INTEREST THEREIN)

I FURTHER CERTIFY THAT NO OFFICER OR EMPLOYEE OF THE CITY OF JERSEY CITY HAS ANY INTEREST, DIRECT OR INDIRECT, IN THIS ENTITY.

I CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

Dated: 8-27-2014 Columbus Hotel Urban Renewal, L.L.C.

Witness:



By: 80 Columbus Co., LLC, its sole member
By: 70-90 Columbus Holding Co., LLC, its sole member

By: Panepinto Family Realty, LLC

By: 
Joseph A. Panepinto, authorized member

Witness:

By: KL 70-90 Columbus, L.L.C.

By: _____
Jason Kimmel, authorized member

Witness:

By: FJG Columbus 70-90, LLC

The members of 70-90 Columbus Holding Co., LLC are as follows:

NAME	ADDRESS	PERCENT OWNED
1. Panepinto Family Realty, LLC ("Panepinto")	Harborside Financial Center Plaza 10, Suite 1203 3 Second Street Jersey City, NJ 07311	25%
2. KL 70-90 Columbus, L.L.C. ("KL")	28 Clinton Street Newark, NJ 07102	25%
3. FJG Columbus 70-90, LLC ("FJG")	30 Montgomery Street 15 th Floor Jersey City, NJ 07302	25%
4. Ironstate Holdings, LLC ("Ironstate")	5 Marineview Plaza Hoboken, NJ 07030	25%

I CERTIFY THAT THE FOLLOWING LIST REPRESENTS THE NAMES OF ALL MEMBERS OWNING A 10% OR GREATER INTEREST IN THE ABOVE ENTITY (IF ONE OR MORE OF THE ABOVE NAMED IS ITSELF AN ENTITY, THE APPLICANT WILL PROVIDE THE NAMES OF ANY ENTITY OWNING A 10% OR GREATER INTEREST THEREIN)

I FURTHER CERTIFY THAT NO OFFICER OR EMPLOYEE OF THE CITY OF JERSEY CITY HAS ANY INTEREST, DIRECT OR INDIRECT, IN THIS ENTITY.

I CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

Dated: 8/27/14

Columbus Hotel Urban Renewal, L.L.C.

Witness:

By: 80 Columbus Co., LLC, its sole member

By: 70-90 Columbus Holding Co., LLC, its sole member

By: Panepinto Family Realty, LLC

By:

Joseph A. Panepinto, authorized member

Witness:

Larry Spada

By: KL 70-90 Columbus, L.L.C.

By:

Jason Kimmel, authorized member

Witness:

By: FJG Columbus 70-90, LLC

John Barry Mara


By:

Frank J. Guarini
Frank J. Guarini, authorized member

By: Ironstate Holdings, LLC

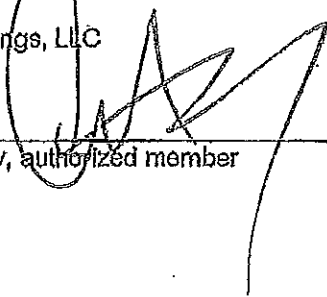
By:

David Barry, authorized member


WITNESS
CHARLES HARRINGTON

By: _____
Frank J. Guarini, authorized member

By: Ironstate Holdings, LLC

By: 
_____ David Barry, authorized member

FISCAL IMPACT ANALYSIS - COMMERCIAL

COLUMBUS HOTEL

Total Municipal Budget: 516,641,147		Total Real Property Value: 5,932,776,544		Incoming Facility Non Residential Value: 8,268,000	
		Non-Residential Property Value: 2,633,404,662			
		Non-Residential Value 2,633,404,662			
		Net Valuation Taxable 5,932,776,544			
Total Local Municipal Expenditures For Non-Residential		Proportion of Non-Residential Value to Total Net Valuation Taxable		Total Municipal Expenditures Attributable to Non-Residential Use	
179,461,222		0.44		78,962,938	
		Incoming Facility Non-Residential Value 8,268,000			
		Net Valuation Taxable 5,932,776,544			
Total Municipal Expenditures Attributable to Non-Residential Use		Proportion of Facility to Total Net Valuation Taxable		Municipal Cost Allocated To Non-Residential Facility	
78,962,938		0.0014		110,548	

Facilities Assessment 8,268,000
Tax Rate (2014) 74.34
Annual Tax 614,643

Municipal Portion* (0.5)
307,322

Service Charge Amount:
501,039

Implied Surplus (Cost)
390,491

Non-Residential Municipal Expenditure Breakdown:

public safety 171,817,581
DPW (Bldg, Streets, Parks) 7,643,641
Total 179,461,222

Additional Estimated Hotel Occupancy Tax**:

400,000

Net Valuation Taxable Source: 2014 Table of Aggregates

Municipal Portion Source: 2014 Estimated Tax Rate

* this figure assumes that any project, and one with the quality of finishes proposed, would be built without a tax abatement

**based on initial per room rates which will increase over the term of the Tax Abatement as rates increase

EXHIBIT B

COLUMBUS HOTEL URBAN RENEWAL, L.L.C.

ESTIMATED ANNUAL SERVICE CHARGE COMPUTATION

Estimated Total Project Cost:		\$25,051,990
Estimated Annual Service Charge		
Total Project Cost x 2%	Years 1 - 20	\$ 501,040

EXHIBIT B-1

**COLUMBUS HOTEL URBAN RENEWAL, L.L.C.
FISCAL PLAN**

EXHIBIT B-1
Projected Hotel Operations

Income Growth: 3.0%
Expense Growth: 3.0%

		1	2	3	4	5	6	7	8	9	10
REVENUE	Average Daily Rate =>	\$167.17	\$172.19	\$177.35	\$182.67	\$188.15	\$193.80	\$199.61	\$205.60	\$211.77	\$218.12
	Occupancy Rate =>	60.0%	70.0%	75.0%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%
Hotel Rooms ⁽¹⁾		\$5,554,755	\$6,686,981	\$7,379,561	\$8,259,696	\$8,507,487	\$8,762,712	\$9,025,593	\$9,296,361	\$9,575,252	\$9,862,509
Other Income	2.5% Rev	139,119	167,175	184,489	206,492	212,687	219,068	225,640	232,409	239,381	246,563
Gross Revenue		\$5,703,874	\$6,854,155	\$7,564,050	\$8,466,189	\$8,720,174	\$8,981,780	\$9,251,233	\$9,528,770	\$9,814,633	\$10,109,072
EXPENSES											
Departmental Expenses	23% Rev	\$1,345,544	\$1,548,354	\$1,708,719	\$1,912,512	\$1,969,887	\$2,028,984	\$2,089,854	\$2,152,549	\$2,217,126	\$2,283,639
Management Fees ⁽²⁾	3.5% Rev	199,636	239,895	264,742	296,317	305,206	314,362	323,793	333,507	343,512	353,818
Franchise Fees & Exp. ⁽³⁾	8.0% Rev	445,180	534,958	590,365	660,776	680,599	701,017	722,047	743,709	766,020	789,001
General & Administrative	6.5% Rev	370,752	381,874	393,331	405,131	417,284	429,803	442,697	455,978	469,657	483,747
Sales & Marketing	5.4% Rev	308,009	317,249	326,787	336,570	346,667	357,067	367,779	378,812	390,177	401,882
Maintenance & Repair	4.0% Rev	228,155	235,000	242,050	249,311	256,790	264,494	272,429	280,602	289,020	297,690
Utility Services	4.9% Rev	393,567	405,374	417,536	430,062	442,963	456,252	469,940	484,038	498,559	513,516
Property Insurance		50,000	51,500	53,045	54,636	56,275	57,964	59,703	61,494	63,339	65,239
Real Estate Taxes		421,040	421,040	421,040	421,040	421,040	421,040	421,040	421,040	421,040	421,040
FF&E Replacement Expense ⁽⁴⁾		573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245
Replacement Reserve ⁽⁴⁾	\$0.65 / sf	82,450	84,924	87,471	90,095	92,798	95,582	98,450	101,403	104,445	107,579
Total Operating Expenses		\$4,417,578	\$4,793,413	\$5,078,309	\$5,429,694	\$5,562,756	\$5,699,810	\$5,840,976	\$5,986,377	\$6,136,139	\$6,290,395
Expense to Income Ratios =>		77%	70%	67%	64%	64%	63%	63%	63%	63%	62%
Net Operating Income		\$1,286,296	\$2,060,742	\$2,485,741	\$3,036,495	\$3,157,418	\$3,281,969	\$3,410,257	\$3,542,393	\$3,678,494	\$3,818,677
Profit Margins =>		23%	30%	33%	36%	36%	37%	37%	37%	37%	38%
DEBT SERVICE											
Interest Payment ⁽⁵⁾		1,150,000	1,559,531	1,671,159	1,637,814	1,602,413	1,564,829	1,524,926	1,482,562	1,437,586	1,389,835
Amortization ⁽⁵⁾		0	652,250	540,622	573,967	609,368	646,952	686,855	729,219	774,195	821,946
Total Debt Service		\$1,150,000	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781
Cash Flow after Debt Service		\$136,296	-\$151,039	\$273,960	\$824,714	\$945,637	\$1,070,188	\$1,198,476	\$1,330,612	\$1,466,713	\$1,606,895

Notes:

- (1) Average Daily Rate is based on historical data of a particular comp set for years 2007-13. Occupancy assumptions take into consideration multiple years to build up the business and competition from new
- (2) Includes base fee of 2.5% plus 1% incentive fee.
- (3) FF&E budget cost of \$4 million (purchase/installation) straight-line over a projected 7 years useful life. Actual useful life of most FF&E items range from years 3 and 7.
- (4) Required under the franchise agreement with Marriott.
- (5) Debt Service assumes \$28.8 million of principal and year one interest only period at 4% and permanent fixed rate financing at 6% over 25 years amortization.

EXHIBIT B-1
Projected Hotel Operations

Income Growth: 3.0%
Expense Growth: 3.0%

		11	12	13	14	15	16	17	18	19	20
REVENUE	Average Daily Rate =>	\$224.66	\$231.40	\$238.34	\$245.49	\$252.86	\$260.45	\$268.26	\$276.31	\$284.60	\$293.13
	Occupancy Rate =>	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%	81.5%
Hotel Rooms ⁽¹⁾		\$10,158,385	\$10,463,136	\$10,777,030	\$11,100,341	\$11,433,351	\$11,776,352	\$12,129,642	\$12,493,532	\$12,868,338	\$13,254,388
Other Income	2.5% Rev	253,960	261,578	269,426	277,509	285,834	294,409	303,241	312,338	321,708	331,360
Gross Revenue		\$10,412,344	\$10,724,715	\$11,046,456	\$11,377,850	\$11,719,185	\$12,070,761	\$12,432,884	\$12,805,870	\$13,190,046	\$13,585,747
EXPENSES											
Departmental Expenses	23% Rev	\$2,352,149	\$2,422,713	\$2,495,394	\$2,570,256	\$2,647,364	\$2,726,785	\$2,808,588	\$2,892,846	\$2,979,631	\$3,069,020
Management Fees ⁽²⁾	3.5% Rev	364,432	375,365	386,626	398,225	410,171	422,477	435,151	448,205	461,652	475,501
Franchise Fees & Exp. ⁽³⁾	8.0% Rev	812,671	837,051	862,162	888,027	914,668	942,108	970,371	999,483	1,029,467	1,060,351
General & Administrative	6.5% Rev	498,259	513,207	528,603	544,462	560,795	577,619	594,948	612,786	631,180	650,116
Sales & Marketing	5.4% Rev	413,939	426,357	439,147	452,322	465,892	479,868	494,264	509,092	524,365	540,096
Maintenance & Repair	4.0% Rev	306,621	315,820	325,294	335,053	345,105	355,458	366,122	377,105	388,419	400,071
Utility Services	4.9% Rev	528,922	544,789	561,133	577,987	595,306	613,165	631,550	650,507	670,022	690,123
Property Insurance		67,196	69,212	71,286	73,427	75,629	77,898	80,235	82,642	85,122	87,675
Real Estate Taxes		421,040	421,040	421,609	434,257	447,285	460,708	474,524	488,760	503,134	517,051
FF&E Replacement Expense ⁽³⁾		573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245	573,245
Replacement Reserve ⁽⁴⁾	\$0.85 / sf	110,806	114,130	117,554	121,081	124,713	128,454	132,308	136,277	140,366	144,577
Total Operating Expenses		\$6,449,278	\$6,612,928	\$6,792,056	\$6,968,321	\$7,160,173	\$7,357,781	\$7,561,317	\$7,770,959	\$8,238,602	\$8,727,826
Expense to Income Ratios =>		62%	62%	61%	61%	61%	61%	61%	61%	62%	64%
Net Operating Income		\$3,963,066	\$4,111,786	\$4,264,400	\$4,409,529	\$4,559,012	\$4,712,980	\$4,871,567	\$5,034,911	\$4,951,444	\$4,857,922
Profit Margins =>		38%	38%	39%	39%	39%	39%	39%	39%	38%	36%
DEBT SERVICE											
Interest Payment ⁽⁵⁾		1,339,139	1,285,317	1,228,174	1,167,508	1,103,099	1,034,718	962,119	885,043	803,213	716,335
Amortization ⁽⁶⁾		872,642	926,464	983,607	1,044,273	1,108,682	1,177,063	1,249,662	1,326,738	1,408,568	1,495,446
Total Debt Service		\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781	\$2,211,781
Cash Flow after Debt Service		\$1,751,285	\$1,900,005	\$2,052,619	\$2,197,748	\$2,347,231	\$2,501,199	\$2,659,786	\$2,823,130	\$2,739,663	\$2,646,141

EXHIBIT C

COLUMBUS HOTEL URBAN RENEWAL, L.L.C.

See Attached Estimated Total Project Cost

EXHIBIT C

COLUMBUS HOTEL URBAN RENEWAL, L.L.C.

ESTIMATED TOTAL PROJECT COST

a.	Land cost:	\$1,520,000
b.	Architects, engineers and attorneys fees:	1,121,000
c.	Surveying and testing charges:	25,000
d.	Actual core and shell construction cost as certified by architect, including site preparation:	19,103,800
e.	Insurance, interest and finance costs during construction:	2,078,000
f.	Cost of obtaining permanent financing:	214,000
g.	Commissions and other expenses payable in connection with initial lease of units:	n/a
h.	Real estate taxes and assessments during construction period:	35,000
i.	Developer's overhead (5% of actual construction costs set forth in 40A:20-3(h), as amended)	<u>955,190</u>
	TOTAL:	<u>\$25,051,990</u>
	Annual PILOT charge at 2%	\$ 501,040

EXHIBIT C-1

COLUMBUS HOTEL URBAN RENEWAL, L.L.C.

Certification of Estimated Construction Costs

On this 24 day of SEPT. 2014, the undersigned being the architect for the Project to be developed by Columbus Hotel Urban Renewal, LLC, does hereby certify to the best of my knowledge and belief that Exhibit C accurately reflects the estimated actual construction costs of the Project proposed on Block 13003, Lot 1, C3.80, more commonly referred to as 80 Columbus Drive, Jersey City, New Jersey.

Witness [Signature] 09/24/14

By: [Signature]
Name: GLENN F. HAYES, AIA
Title: Architect

SERVICE CHARGE VS CONVENTIONAL - columbus hotel

*ASSUMING 74.34 TAX RATE WITH 2% ANNUAL INCREASE

NEW ASSESSMENTS FROM TAX ASSESSOR (BASED ON APPLICATION)

LAND 799,000 COUNTY: 5%
 BLDG 7,469,000 ADMIN: 0.50%
 TOTAL 8,268,000

YEAR	Staged Phase-In Percentage	Annual Service Charge w/ Phase-In	County (5%)	Admin (0.5%)	Conventional Taxes (2% Annual)	City Share of Conventional taxes at 51%
1	n/a	501,039	25,052	2,505	614,643	313,468
2	n/a	501,039	25,052	2,505	626,936	319,737
3	n/a	501,039	25,052	2,505	639,475	326,132
4	n/a	501,039	25,052	2,505	652,264	332,655
5	n/a	501,039	25,052	2,505	665,309	339,308
6	n/a	501,039	25,052	2,505	678,616	346,094
7	n/a	501,039	25,052	2,505	692,188	353,016
8	n/a	501,039	25,052	2,505	706,032	360,076
9	n/a	501,039	25,052	2,505	720,152	367,278
10	20%	501,039	25,052	2,505	734,555	374,623
11	40%	501,039	25,052	2,505	749,247	382,116
12	60%	501,039	25,052	2,505	764,231	389,758
13	60%	501,039	25,052	2,505	779,516	397,553
14	60%	501,039	25,052	2,505	795,106	405,504
15	60%	501,039	25,052	2,505	811,009	413,614
16	60%	501,039	25,052	2,505	827,229	421,887
17	80%	675,018	33,751	3,375	843,773	430,324
18	80%	688,519	34,426	3,443	860,649	438,931
19	80%	702,289	35,114	3,511	877,862	447,709
20	80%	716,335	35,817	3,582	895,419	456,664

TOTALS 10,798,785 539,939 53,994 14,934,211 7,616,448

DATE: September 24, 2014

TO: Diana Jeffery (For distribution to City Council and City Clerk)

FROM: Maureen Cosgrove, Tax Collector

SUBJECT: TWENTY YEAR TAX ABATEMENT FOR COLUMBUS HOTEL URBAN
RENEWAL, L.L.C. BLOCK 13003 LOT 1 C 3.80

CC: M. Cosgrove, J. Monahan, Brian Platt

INTRODUCTION:

The applicant, Columbus Hotel Urban Renewal, LLC, is applying for a Twenty (20) Year tax abatement. The fee of \$9,500 was paid with the application.

LOCATION OF THE PROPERTY:

The property is located at 80 Columbus Drive it is Block 13003 Lot 1 Qualifier C 3.80 on the Jersey City Tax Map.

PROPERTY TO BE CONSTRUCTED

The project includes construction of one fourteen (14) story Hotel containing approximately one hundred and fifty two (152) rooms.

ESTIMATED TOTAL CONSTRUCTION COST:

The total project cost is estimated at \$25,051,990.00 and cost of construction is estimated at \$19,103,800.00.

CONSTRUCTION SCHEDULE:

The applicant expects to begin construction in December 2014. Completion is scheduled in twenty-four (24) months.

ESTIMATED JOBS CREATED:

The applicant estimate 100 construction jobs over the construction period, and 40 permanent full time jobs will be created.

AFFORDABLE HOUSING TRUST FUND CONTRIBUTION:

The applicant proposes an AHTF Contribution. At the rate of \$1.50 per square foot for 91,759 square feet the total AHTF Contribution is \$137,638.50.

CURRENT REAL ESTATE TAXES:

The current land assessment is 466,720 for the property is at the current tax rate of \$74.35, the annual land tax would be \$34,700.64. The taxes are current.

PROPOSED ABATEMENT:

The applicant has requested a term of twenty (20) years based upon two PERCENT (2%) of total project cost. The total project cost of \$ would generate an annual service charge of \$.

PROPOSED REVENUE TO THE CITY:

The annual service charge	\$ 501,040
The annual administration	\$ 10,020
Estimated annual Hotel tax	\$ 400,000

Total	\$ 911,060
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In addition County service Charge	\$ 25,052
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City Clerk File No. _____ Ord. 14.131

Agenda No. _____ 3.B _____ 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.131

TITLE:

BOND ORDINANCE OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY (THE "CITY"), PROVIDING FOR VARIOUS 2014 CAPITAL IMPROVEMENTS BY AND IN THE CITY AND APPROPRIATING \$36,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$34,714,280 IN BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Jersey City, in the County of Hudson, State of New Jersey (the "City") as general improvements. For the several improvements or purposes described in Section 3 hereof there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement or purpose, such sums amounting in the aggregate to \$36,450,000, including the aggregate sum of \$1,735,720 as the several down payments for the improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"). The down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the City for down payment or for capital improvement purposes.

Section 2. In order to finance the cost of the several improvements or purposes set forth in Section 3 hereof and not covered by application of the several down payments or otherwise provided for hereunder, negotiable bonds are hereby authorized to be issued in the aggregate principal amount of \$34,714,280 pursuant to and within the limitations prescribed by the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued in the aggregate principal amount of \$34,714,280 pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The several improvements hereby authorized and the several purposes for which the bonds or notes are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement, include but are not limited to, as follows:

(1) Purpose: The reconstruction, renovation, rehabilitation and improvement of various City public parks and fields, including but not limited to, miscellaneous capital repairs and improvements, various athletic field, court and track improvements, service facility improvements, playground and active child play facility improvements, lighting, sidewalks, fencing, landscaping and tree planting, benches, renovation and improvement of buildings and facilities and the acquisition and installation, as applicable, of various park amenities and equipment.

<u>Appropriation and Estimated Cost:</u>	\$6,625,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$6,309,523
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$315,477

(2) Purpose: The reconstruction, renovation, rehabilitation, improvement and capital repair of various public buildings and facilities by and in the City, buildings or facilities of not less than Class "B" construction as defined in N.J.S.A. 40A:2-22, including but not limited to, City Hall and various Firehouses and Police Precincts located in the City, including but not limited to, security improvements, elevator improvements, step improvements, restroom improvements, roof improvements, heating, ventilation and air conditioning system improvements and facade, pointing, window and door improvements.

<u>Appropriation and Estimated Cost:</u>	\$3,530,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$3,361,904
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$168,096

(3) Purpose: The reconstruction, resurfacing, widening, extension, construction or capital repairs of various public streets in and for the City with a pavement at least as durable as a Class "A" road as defined in N.J.S.A. 40A:2-22, various City-wide public street improvements shall also include, but are not limited to, curbing, sidewalks, installation of handicapped ramps, landscaping, related studies and bridge improvements and capital repairs.

<u>Appropriation and Estimated Cost:</u>	\$12,400,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$11,809,523
<u>Period or Average Period of Usefulness:</u>	16.33 years
<u>Amount of Down Payment:</u>	\$590,477

(4) Purpose: The acquisition and installation, as applicable, of and improvements to traffic signals and related equipment and machinery, traffic striping, markings and signage, imprinted crosswalks and speed humps.

<u>Appropriation and Estimated Cost:</u>	\$1,765,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$1,680,952
<u>Period or Average Period of Usefulness:</u>	10 years
<u>Amount of Down Payment:</u>	\$84,048

(5) Purpose: The acquisition of new automotive vehicles and equipment for use by various City Departments, including but not limited to, Recreation, Health and Human Services, Public Works (Division of Parks) and Business Administration, such vehicles include but are not limited to, passenger buses, crew cab pick-up trucks, a self loader wrecker, animal transport vehicles, a sport utility vehicle and a lift truck.

<u>Appropriation and Estimated Cost:</u>	\$590,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$561,904
<u>Period or Average Period of Usefulness:</u>	5 years
<u>Amount of Down Payment:</u>	\$28,096

(6) Purpose: The acquisition and installation, as applicable, of various public safety software; computer equipment, voice and data equipment and other communication equipment.

<u>Appropriation and Estimated Cost:</u>	\$2,970,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$2,828,571
<u>Period or Average Period of Usefulness:</u>	7 years
<u>Amount of Down Payment:</u>	\$141,429

rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services, in the New Jersey Department of Community Affairs (the "Director") is on file in the Office of the City Clerk and its available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the City may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness of several improvements or purposes, within the limitations of the Local Bond Law, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 13.55 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the Office of the City Clerk, and a complete executed duplicate thereof has been filed in the office of the Director. Such statement shows the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$34,714,280, that the net debt of the City determined as provided in the Local Bond Law is increased by \$34,714,280 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$4,000,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose of improvement.

(e) The City reasonably expects to commence acquisition and/or construction of the projects described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance in an aggregate not to exceed the amount of bonds or notes authorized in Section 2 hereof. This Section 6(e) is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 7. In the event the United States of America, the State of New Jersey, and/or the County of Hudson make a contribution or grant in aid to the City, for the improvements and purposes authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Hudson. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Hudson, shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

Section 8. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy ad valorem taxes upon all the taxable real property within the

(7) Purpose: The acquisition and installation, as applicable, of various software; computer equipment, voice and data equipment for various City buildings, departments and divisions.

<u>Appropriation and Estimated Cost:</u>	\$1,310,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$1,247,619
<u>Period or Average Period of Usefulness:</u>	7 years
<u>Amount of Down Payment:</u>	\$62,381

(8) Purpose: The rehabilitation of and improvements and capital repairs to the City's libraries, buildings of not less than Class "B" construction as defined in N.J.S.A. 40A:2-22, including but not limited to, tank removal, roof improvements, interior capital improvements and the acquisition and installation, as applicable, of furnishings and equipment.

<u>Appropriation and Estimated Cost:</u>	\$4,360,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$4,152,380
<u>Period or Average Period of Usefulness:</u>	15 years
<u>Amount of Down Payment:</u>	\$207,620

(9) Purpose: A grant of moneys to the Jersey City Incinerator Authority, for the acquisition directly by the Authority of various equipment and vehicles necessary in connection with the operation of the Jersey City Incinerator Authority, including but not limited to, sweepers, mini-sweepers, roll-offs with snow packages, 4x4 pick-up trucks, dump trucks with, if applicable, snow packages, steer loader and attachments, tool cats with plows and spreaders, garbage trucks, pay loaders, bombardiers, fork lift, cargo vans and trailers. A record of such vehicles and equipment acquired shall be prepared and maintained in the Office of the Chief Financial Officer of the City.

<u>Appropriation and Estimated Cost:</u>	\$2,900,000
<u>Estimated Maximum Amount of Bonds or Notes:</u>	\$2,761,904
<u>Period or Average Period of Usefulness:</u>	7.95 years
<u>Amount of Down Payment:</u>	\$138,096

(b) The estimated maximum amount of bonds or notes to be issued for the several improvements or purposes is as stated in Section 2 hereof.

(c) The estimated cost of the several improvements or purposes is equal to the amount of the appropriation herein made therefor.

(d) All such improvements or purposes set forth in Section 3(a) shall include, but are not limited to, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and also shall include all work, materials, equipment, accessories, labor and appurtenances necessary therefor, incidental thereto and suitable for such improvements or purposes and all in accordance with the plans, specifications or documents therefor on file in the Office of the Chief Financial Officer of the City and available for public inspection and hereby approved.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate, or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions N.J.S.A 40A:2-8.1. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest

City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. The Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the City and to execute such disclosure document on behalf of the City. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the City and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. After passage upon first reading of this bond ordinance by the City Council, the City Clerk is hereby directed to either publish the full text of the bond ordinance or a summary thereof, together with a Notice Of Pending Bond Ordinance (with appropriate completions insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19, at least seven days prior to the date set for public hearing and further consideration for final passage (which date shall be at least ten days after introduction and first reading). The City Clerk is further directed to comply with all provisions of this bond ordinance.

Section 11. After final adoption of this bond ordinance by the City Council, the City Clerk is hereby directed to either publish the full text of this bond ordinance or a summary thereof, as finally adopted, together with a Notice Of Adoption Of Bond Ordinance (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A 40A:2-19.

Section 12. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 13. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by Section 11 hereof and the Local Bond Law.

APPROVED AS TO LEGAL FORM

APPROVED: Donna Hanna CTO

Corporation Counsel

APPROVED: _____

Business Administrator

Certification Required ☐

Not Required ☐

ORDINANCE/RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

BOND ORDINANCE OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY (THE "CITY"), PROVIDING FOR VARIOUS 2014 CAPITAL IMPROVEMENTS BY AND IN THE CITY AND APPROPRIATING \$36,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$34,714,280 IN BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF

Initiator

Department/Division	Administration	Management & Budget
Name/Title	Donna Mauer	CFO
Phone/email	X5042	DonnaM@cnj.org

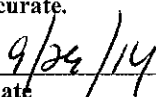
Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance/Resolution Purpose

This bond ordinance authorizes the appropriation of various capital improvements and the issuance of bonds or notes in the amount of \$34,714,280 to fund these projects.

I certify that all the facts presented herein are accurate.


Signature of Department Director


Date

ORDINANCE OF JERSEY CITY, N.J.



COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.132

TITLE:

**AN ORDINANCE OF THE CITY OF JERSEY CITY, IN
THE COUNTY OF HUDSON, NEW JERSEY, PROVIDING
FOR A SPECIAL EMERGENCY APPROPRIATION OF
\$7,500,000 FOR THE PAYMENT OF CONTRACTUALLY
REQUIRED SEVERANCE LIABILITIES RESULTING
FROM THE RETIREMENT OF CITY EMPLOYEES**

WHEREAS, N.J.S.A. 40A:4-53 provides that a municipality may adopt an ordinance providing for a special emergency appropriation for contractually required severance liabilities resulting from the retirement of City employees; and

WHEREAS, the Municipal Council of the City of Jersey City, in the County of Hudson, New Jersey (the "City") has determined to authorize a special emergency appropriation to provide for the payment of contractually required severance liabilities resulting from the retirement of City employees; and

WHEREAS, the estimated cost of the payment of the required severance liabilities is \$7,500,000; NOW THEREFORE

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY, AS FOLLOWS:

Section 1. Pursuant to N.J.S.A. 40A:4-53, the sum of \$7,500,000 is hereby appropriated for the payment by the City of contractually required severance liabilities resulting from the retirement of City employees, and the same shall be deemed a special emergency appropriation as defined and provided for in N.J.S.A. 40A:4-55.

Section 2. The portion of the authorization financed shall be provided for in succeeding annual budgets by the inclusion of at least one fifth of the amount authorized by this ordinance and financed and as provided in N.J.S.A. 40A:4-55.

Section 3. A copy of this ordinance shall be filed with the Director of the Division of Local Government Services.

Section 4. This ordinance shall take effect upon final passage and publication as required by law.

APPROVED AS TO LEGAL FORM

Corporation Counsel

Certification Required ☐
Not Required ☐

APPROVED: 

APPROVED: 

Business Administrator

ORDINANCE/RESOLUTION FACT SHEET – NON-CONTRACTUAL

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Full Title of Ordinance/Resolution

AN ORDINANCE OF THE CITY OF JERSEY CITY, IN THE COUNTY OF HUDSON, NEW JERSEY, PROVIDING FOR A SPECIAL EMERGENCY APPROPRIATION OF \$7,500,000 FOR THE PAYMENT OF CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES RESULTING FROM THE RETIREMENT OF CITY EMPLOYEES

Initiator

Department/Division	Administration	Management & Budget
Name/Title	Donna Mauer	CFO
Phone/email	X5042	DonnaM@jcnj.org


Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance/Resolution Purpose

This ordinance will allow for the appropriation and issuance of up to \$7,500,000 in emergency notes to fund accumulated time payouts to retirees.

I certify that all the facts presented herein are accurate.

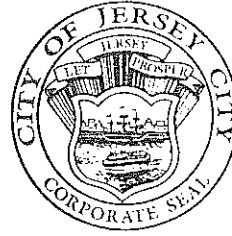

Signature of Department Director


Date

City Clerk File No. Ord. 14.133

Agenda No. 3.D 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.133

TITLE:

AN ORDINANCE SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE II (TRAFFIC REGULATIONS) AMENDING SECTION 332-5 (ONE-WAY STREETS) OF THE JERSEY CITY CODE DESIGNATING COLDEN STREET BETWEEN GRAND STREET AND PRIOR STREET AS A ONE WAY NORTH TO WEST, COUNTERCLOCKWISE

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

1. Chapter 332 (Vehicles and Traffic) Article II (Traffic Regulations) of the Jersey City Code is hereby supplemented as follows:

Section 332-5 ONE-WAY STREETS

The streets or parts of streets listed below are hereby designated as one way streets in the direction indicated.

Name of Street	Direction	Limits
Colden St	East North to West <u>Counterclockwise</u>	Merseles St to Center St <u>Grand St to Prior St</u>

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

3. This ordinance shall be a part of the Jersey City Code as though codified and incorporated in the official copies of the Jersey City Code.

4. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new and underscored.

JDS:pcl
(09.26.14)

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED: _____
Director of Traffic & Transportation

APPROVED: _____
Municipal Engineer

APPROVED: _____
Business Administrator

Certification Required ☐

Not Required ☐

ORDINANCE FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance

AN ORDINANCE SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE II (TRAFFIC REGULATIONS) AMENDING SECTION 332-5 (ONE-WAY STREETS) OF THE JERSEY CITY CODE DESIGNATING COLDEN STREET BETWEEN GRAND STREET AND PRIOR STREET AS A ONE WAY NORTH TO WEST, COUNTERCLOCKWISE

Initiator

Department/Division	Administration	Architecture, Engineering, Traffic and Transportation
Name/Title	Joao D'Souza at the request of Bret Schundler on behalf of BelovED Community Charter School, Jersey City, New Jersey	Director of Traffic & Transportation
Phone/email	201.547.4470	JOAO@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

AN ORDINANCE DESIGNATING COLDEN STREET BETWEEN GRAND STREET AND PRIOR STREET AS A ONE WAY NORTH TO WEST, COUNTERCLOCKWISE

This change in traffic circulation will increase pedestrian and traffic safety around the Charter School.

I certify that all the facts presented herein are accurate.



Signature of Department Director

10/1/14

Date

9/23/2014

Google Maps

Traffic, Transit, Bicycling, Terrain, Directions

Amity St

Fremont St

Housing Authority

Jamac Frozen Food Corporation

Grand St

Beloved Community Charter School

622

Grand St

Schomburg Charter School

Bright St

Bright St

Colden St

Colden St

Colden St

Merseles St

Merseles St

Merseles St

Center St

Center St

Colden St

Brook St

Carpet Clear New Jersey

Colgate St

Colgate St

Decorating Centers

NORTH

↑ A

← I-A

B

↑ Prior St

I-A = A proposed change
B existing

Map data ©2014 Google 100 ft

City Clerk File No. Ord. 14.134

Agenda No. 3.E 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.134

TITLE: AN ORDINANCE SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE III (PARKING, STANDING AND STOPPING) OF THE JERSEY CITY CODE AMENDING SECTION 332-24 (NO PARKING CERTAIN HOURS) DESIGNATING 87 FEET ON THE SOUTH SIDE OF MERCER STREET, WEST OF TUEERS AVENUE, IN FRONT OF HUDSON CATHOLIC HIGH SCHOOL, AS NO PARKING MONDAY THROUGH SATURDAY, 7:00 A.M. TO 9:00 P.M.

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

1. Chapter 332 (Vehicles and Traffic) Article III (Parking, Standing and Stopping) of the Jersey City Code is hereby supplemented as follows:

Section 332-24 PARKING PROHIBITED CERTAIN HOURS
No person shall park a vehicle between the hours specified upon any of the streets or parts thereof listed below.

Name of Street	Side	Days of Week	Hours	Limits
<u>Mercer St</u>	<u>South</u>	<u>M – Sat</u>	<u>7:00 a.m. to 9:00 p.m.</u>	<u>35 ft west of Tuers Av to a point 122 ft west</u>

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
3. This ordinance shall be a part of the Jersey City Code as though codified and incorporated in the official copies of the Jersey City Code.
4. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material to be inserted is new and underscored.

JDS:pci
(09.26.14)

APPROVED AS TO LEGAL FORM

Corporation Counsel

Certification Required ☐

Not Required ☐

APPROVED: _____
Director of Traffic & Transportation

APPROVED: _____
Municipal Engineer

APPROVED: _____
Business Administrator

ORDINANCE FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance

AN ORDINANCE SUPPLEMENTING CHAPTER 332(VEHICLES AND TRAFFIC) ARTICLE III(PARKING, STANDING AND STOPPING) OF THE JERSEY CITY CODE AMENDING SECTION 332-24 (NO PARKING CERTAIN HOURS) DESIGNATING 87 FEET ON THE SOUTH SIDE OF MERCER STREET, WEST OF TUERS AVENUE, IN FRONT OF HUDSON CATHOLIC HIGH SCHOOL, AS NO PARKING MONDAY THROUGH SATURDAY, 7:00 A.M. TO 9:00 P.M.

Initiator

Department/Division	Administration	Architecture, Engineering, Traffic and Transportation
Name/Title	Joao D'Souza at the request of Gregory Corrado, Assistant Business Administrator on behalf of Jerry McCann for Hudson Catholic High School, Jersey City NJ	Director of Traffic & Transportation
Phone/email	201.547.4470	JOAO@jcnj.org

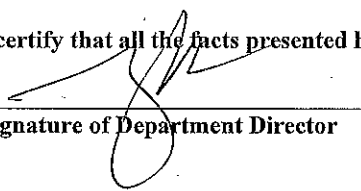
Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

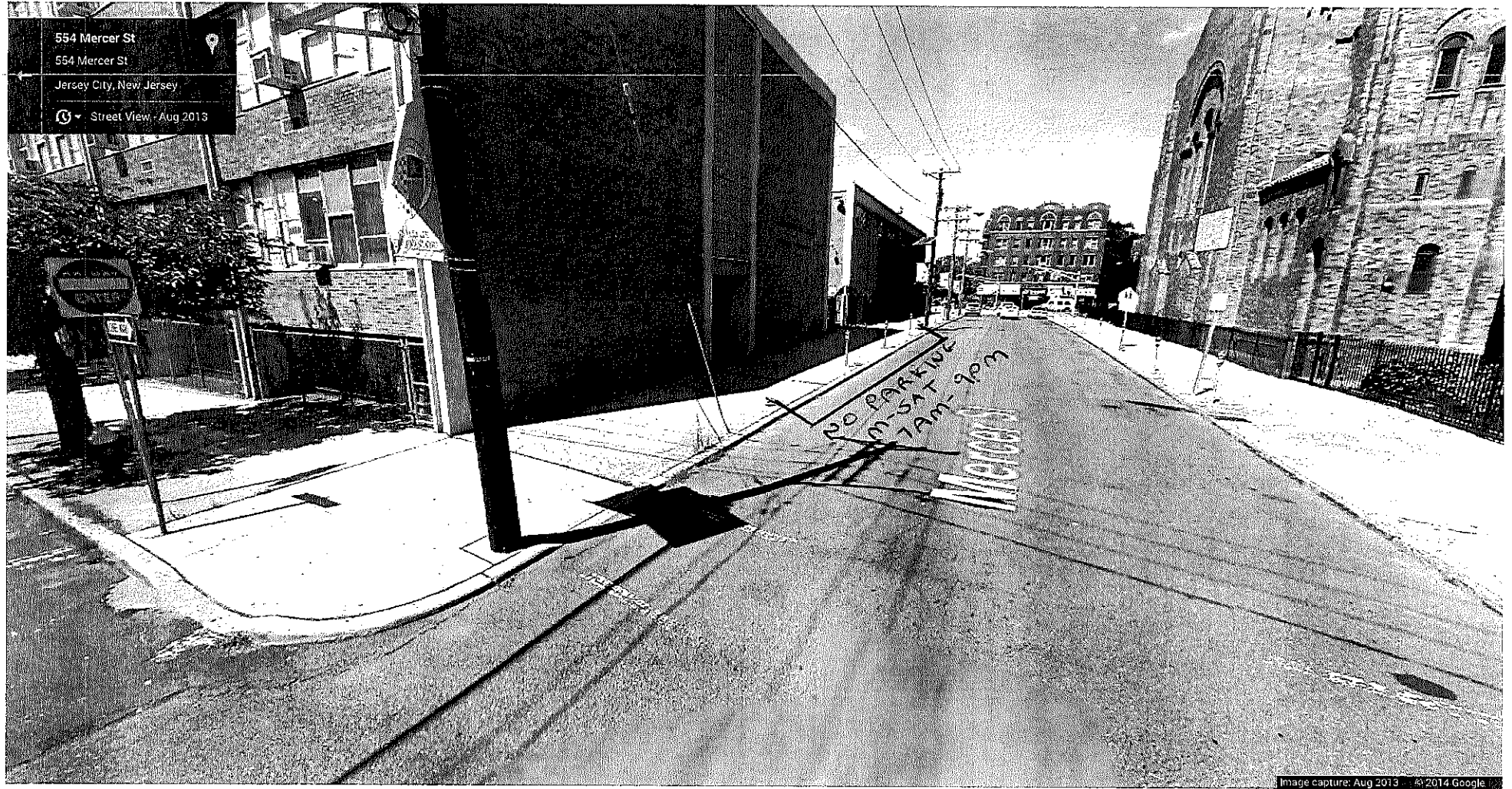
AN ORDINANCE DESIGNATING THE SOUTH SIDE OF MERCER STREET, WEST OF TUERS AVENUE, IN FRONT OF HUDSON CATHOLIC HIGH SCHOOL, AS NO PARKING MONDAY THROUGH SATURDAY, 7:00 A.M. TO 9:00 P.M.

The restricted parking area measures approximately 87 feet in length and will result in the removal of three parking meters.

I certify that all the facts presented herein are accurate.


Signature of Department Director

10/1/14
Date



City Clerk File No. Ord. 14.135

Agenda No. 3.F 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE **14.135**

TITLE:

ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN

WHEREAS, the Municipal Council of the City of Jersey City, adopted the Journal Square 2060 Redevelopment Plan at its meeting of July 14, 2010, Ordinance #10-103; and

WHEREAS, the Municipal Council seeks to promote the continuing redevelopment of the area by amending the standards and regulations within the redevelopment plan; and

WHEREAS, a copy of the amended text is attached hereto and made a part hereof, and is available for public inspection at the Offices of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ; and

WHEREAS, the following amendments to the Journal Square 2060 Redevelopment Plan have been reviewed by the Jersey City Planning Board at its meeting of September 23, 2014; and

WHEREAS, the Planning Board voted to recommend adoption of these amendments by the Municipal Council; and

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that the recommended amendments to the Journal Square 2060 Redevelopment Plan be, and hereby are, adopted.

BE IT FURTHER ORDAINED THAT:

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.
- E. The City Planning Division is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the Hudson County Planning board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is hereby directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Hudson County Planning Board as required by N.J.S. 40:55D-16. The clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Tax Assessor as required by N.J.S. 40:49-2.1.

 Robert D. Cotter, PP, FAICP, Director of Planning

APPROVED AS TO LEGAL FORM

Corporation Counsel

APPROVED: 

APPROVED: _____

Business Administrator

Certification Required ☐

Not Required ☐

ORDINANCE/RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution/ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution/ordinance.

Full Title of Ordinance/Resolution

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING
AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN**

Initiator

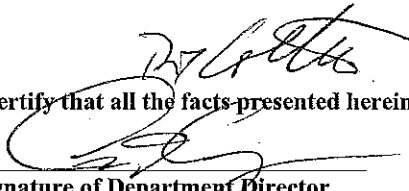
Department/Division	HEDC	City Planning
Name/Title	Robert Cotter, PP, AICP	Director
	Jeff Wenger, AICP	Principal Planner
Phone/email	201-547-5010	bobbyc@jcnj.org / jeff@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Purpose

This ordinance amends the Journal Square 2060 Redevelopment Plan to increase the building base height to accommodate substantial retail and removes reference to an easement requirement at the 10 Journal Square site (former hotel on the square site on Block 9501, Lot 23). This amendment will also clarify floor to ceiling height requirements and plaza area requirements.

I certify that all the facts presented herein are accurate.


Signature of Department Director

9/25/14
9/30/14
Date

SUMMARY STATEMENT

ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN

This ordinance amends the Journal Square 2060 Redevelopment Plan to increase the building base height to accommodate substantial retail and removes reference to an easement requirement at the 10 Journal Square site (former hotel on the square site on Block 9501, Lot 23). This amendment will also clarify floor to ceiling height requirements and plaza area requirements.

PROPOSED AMENDMENTS TO THE JOURNAL SQUARE 2060 REDEVELOPMENT PLAN

PRESENTED TO THE JERSEY CITY PLANNING BOARD ON SEPTEMBER 23, 2014

Text that is unchanged is in plain face type like this.

Text that is deleted is in strike-through ~~like this~~.

Text that is added is in bold **like this**.

D) INTRODUCTION

On November 25, 2008 the Jersey City Municipal Council determined, by Resolution # 08-879, the *Greater Journal Square Study Area* to be an "area in need of rehabilitation," pursuant to the New Jersey Local Housing and Redevelopment Law (N.J.S.A. 40A:12A-1 et seq.). Previously, portions of the Journal Square area were also declared to be an "area in need of redevelopment," called the *Journal Square Redevelopment Plan* originally adopted in 1974 and amended several times since.

This redevelopment plan focuses on Journal Square, the PATH rail station and bus depot, as well as the surrounding neighborhoods within walking distance, comprising an area of approximately 211 acres, 57 city blocks, and approximately 1600 individual parcels.

The purpose of the Journal Square 2060 Plan is to foster the redevelopment of Journal Square, Jersey City's central business district, by providing for transit oriented development of new housing, offices, commercial, and public open spaces within walking distance to the Square and transit facilities, returning Journal Square to a flourishing central business and shopping destination.

Since the mid 1950's, various plans in and around Journal Square were adopted by the Jersey City Municipal Council to address the adjacent air-rights development over the PATH rail cut and various development parcels in the vicinity of the Journal Square Transportation Center. Then in 2007, *Vision Journal Square* was prepared by A. Nelessen Associates, Inc. (ANA) and Dean Marchetto Architects, PC (DMA) in coordination the Jersey City Redevelopment Agency (JCRA) and the City of Jersey City. The process included multiple charrettes and public meetings, producing a comprehensive vision for the greater Journal Square area.

The Jersey City Master Plan lists several specific objectives and recommended actions which guide the standards and requirements for this plan. More specifically, the award winning Jersey City Master Plan Circulation Element, *Jersey City Mobility 2050*, recommends that the City:

Develop and implement smart growth strategies that locate new residential development within walking distance of bus stops and passenger rail stations, with the highest density zones located within walking distance of passenger rail stations; that mixes residential land use with commercial land use;

Create meaningful public spaces that facilitate integration of the built environment with arterials and major transit routes;

Requirements to provide bicycle amenities for building users, such as interior bicycle storage facilities for residential buildings that are accessible without stairs or tight corners, and bicycle racks and employee showers for commercial buildings;

Parking space requirement maximums that reduce the number of permitted parking spaces in development near fixed rail transit stations in proportion to distance and inversely proportional to the intensity of development.

In addition, the NJ Department of Transportation and NJ Transit created the "Transit Village Initiative" to recognize municipalities that have demonstrated a commitment to revitalizing and redeveloping areas within walking distance of rail or bus facilities into compact, mixed-use neighborhoods that are consistent with Smart Growth principles. In 2005, the Journal Square area received designation as a Transit Village by an inter-agency Transit Village Task Force.

It now appears appropriate for the City to take a more pro-active approach to redevelopment in this Area, so as to bring the Area into greater compliance with the recommendations of the Master Plan. The Master Plan calls for "station areas" around Jersey City's mass transit facilities to be up-zoned to include higher density residential, neighborhood retail, restaurants and other uses compatible with a mixed use transit oriented station area. In addition, parking requirements are to be reduced "to capitalize on the availability of high quality mass transit" and to increase building coverage, floor-area-ratios, and residential density, which can be supported near transit facilities.

As Jersey City enters the 21st century, we wish to continue developing in a sustainable direction. This means focusing future development to areas where mass transit is available, reducing parking to limit traffic congestion and effects on air quality, requiring bicycle parking and wider sidewalks to limit automobile use and promote alternative modes, requiring retail uses along pedestrian corridors to create an enjoyable and safe neighborhood environment, concentrating high density high-rise development along the major thoroughfares and immediately adjacent to mass transit facilities, preserving the most distinguished historic structures, and provide for design guidelines so that new development sits comfortably next to the historic fabric of this area.

Journal Square and its surrounding neighborhoods are not a blank slate. The existing physical structure of the Area is extremely varied. Building types range from detached two-family homes with generous front yards, to 4 to 6 story apartment buildings, office buildings, and commercial uses. This variety of uses and building types are all interwoven at a fine scale. Some streets are quiet and narrow, while others have intensive retail uses. This diversity need not inhibit the City from drafting new development guidelines. This redevelopment plan balances the need for new development at higher densities with the existing context of diverse and varied neighborhoods. To do this, this plan employs an approach to development that requires higher density projects to assemble sufficient development sites to accommodate building designs and forms that can reasonably fit into its surroundings while providing improved infrastructure. The Plan employs the use of building stepbacks, sidewalk widening, open space and plaza provisions, contextual yard requirements, required retail uses, parking limitations and bicycle parking requirements, green building requirements, and design guidelines to assure that future development contributes to the sustainable future of Journal Square.

II) BOUNDARIES

- A) A map of the boundary, entitled, *Map 1: Boundary Map*, dated July 8, 2010 is attached and shall govern the boundaries of this redevelopment plan.
- B) The boundary of the Journal Square 2060 plan omits land on Blocks 6502 (formerly known as 593.1 and 628.1) which was authorized as part of the Greater Journal Square Study Area (Resolution 08-879). As this site has already been redeveloped under the St John's Redevelopment Plan and no substantive change to this site is currently contemplated, this area will not be included as part of the Journal Square 2060 Plan.
- C) The boundary of the Journal Square 2060 plan also omits land on Block 6401 and portions of Block 6701 and 8203 which are part of the Bergen Arches right-of-way and which were authorized as part of the Greater Journal Square Study Area (Resolution 08-879).

III) REDEVELOPMENT PLAN OBJECTIVES

Renewal activities for the Journal Square 2060 plan area will be undertaken in conformity with, and will be designed to meet, the following objectives of the Redevelopment Plan:

- 1) Re-establish Journal Square as a Jersey City's primary central business district and activity center.
- 2) Make sustainability a theme of future development and redevelopment that guides land use and transportation decisions.
- 3) Integrate open space into the Area by incorporating a system of parks, plazas, and natural amenities.
- 4) Promote a pattern of mixed and multiple-use development. New buildings within the Area should appropriately combine residential, commercial, and entertainment uses and encourage a balance of jobs-to-housing.
- 5) Make walking and biking an easy, safe, desirable, and convenient mode of transport.
- 6) Encourage local quality retail within the greater Journal Square area.

- 7) Reduce automobile dependency by encouraging high density development in close proximity to mass transit with low automobile parking ratios and with bicycle parking requirements.
- 8) Provide for urban amenities such as transit, housing variety, open space, and entertainment that will attract new employers and a range of new residents to the area while sustaining existing neighborhoods.
- 9) Encourage the adaptive reuse of existing structures.
- 10) Encourage buildings to meet or exceed the US Green Building Council's LEED (Leadership in Energy and Environmental Design) Certification or equivalent.
- 11) The removal of vacated, deteriorated and obsolete structures.
- 12) The overall improvement of traffic circulation through the development of new and improved vehicular and pedestrian circulation systems which provide for separation of vehicular and pedestrian traffic and the maximum use of public transportation.
- 13) Coordination of redevelopment activities, reinforcing already existing adjacent renewal programs and in accordance with the Master Plan for the City overall.
- 14) Provide for the conservation and preservation of select structures with historic or architectural significance, and provide opportunity for adaptive reuse for future generations.
- 15) Encourage the private sector to consolidate development parcels to allow for sufficient building setbacks providing, light and air to the street and adjacent properties.
- 16) Provide for redevelopment without public acquisition or relocation of residents and business concerns.
- 17) Provide for an active "front door" plaza entry way where Magnolia Avenue accesses the Journal Square PATH station, at the existing kiss-and-ride area.
- 18) To promote balanced development in accordance with applicable State laws and City requirements regarding affordable housing.
- 19) Creation of major new employment, housing, educational, recreational, commercial and retail opportunities for the residents of Jersey City.
- 20) Coordinate redevelopment activities to provide a uniform and consistent attack on blighted, dilapidated, and obsolete structures within the Area.
- 21) To promote the principles of "Smart Growth" and "Transit Village" development, including a variety of housing choices, providing wider sidewalks, minimize automobile use by maximizing the appeal of mass transit, encourage reduced parking and shared use parking solutions, and creating a livable community with convenient access to commercial facilities.
- 22) Maintain and improve pedestrian access to the Journal Square PATH Station from the surrounding communities.
- 23) To maximize the use of rooftop open space for recreation and/or green roofs.
- 24) Utilize setbacks, architectural design elements, and building massing regulation to maintained light and air to the street and adjacent properties.
- 25) All structures within the project area shall be designed and maintained so as to improve the visual impact of the Jersey City skyline as viewed from within and beyond the City's borders.
- 26) Provide for new transport systems such as a streetcar along Kennedy Blvd. and Bergen Avenues and a Bus Rapid Transit system connecting to Route 440.

IV) GENERAL ADMINISTRATIVE PROVISIONS

- A) No building shall be constructed over public rights-of-way in the project area with the exception of freestanding structures ancillary to public plazas and/or pedestrian walkways, which shall be subject to review by the Planning Board.
- B) Prior to commencement of construction, site plans for the construction and/or rehabilitation of improvements to the Area shall be submitted by the developer to the Planning Board of the City of Jersey City for review and approval so that compliance of such plans with the redevelopment objectives can be determined. Site plan review shall be conducted by the Planning Board pursuant to NJSA 40:55D-1 et. seq. Applications may be submitted for the entire project or in any number of phases.
- C) As part of any site plan approval, the Planning Board may require a developer to furnish performance guarantees pursuant to NJSA 40:55D-53 et seq. Such performance guarantees shall be in favor of the City in a form approved by the Jersey City Corporation Counsel. The amount of any such performance guarantees shall be determined by the City Engineer and shall be sufficient to assure completion of on and off site improvements within one (1) year of final site plan approval.
- D) SPLIT ZONED DEVELOPMENT SITES
 - 1) For any consolidated development site which overlaps multiple zone districts, the zone that covers the largest portion of the site shall govern the entire development site. Zone 6, Zone 7, and Zone 11 are excluded from this split zone provision. All property within Zones 6, 7, or 11 must be developed under the provisions of that zone.
- E) All traffic impact studies shall incorporate, as part of the study, all projects approved or proposed in the immediate area. A listing of the projects may be obtained from the Division of City Planning.
- F) No use or reuse shall be permitted, which, when conducted under proper safeguards, will produce corrosive, toxic or noxious fume, glare, electromagnetic disturbances, radiation, smoke, cinders, odors, dust or waste, undue noise or vibration (60 decibels), or other objectionable features so as to be detrimental to the public health, safety or general welfare.
- G) All residential redevelopment proposals and construction plans shall meet or exceed applicable FHA minimum room size requirements prior to approval by the Planning Board.
- H) The provisions of this plan specifying the redevelopment of the project area and the requirements and restrictions with respect thereto shall be in effect for a period of fifty (50) years from the date of approval of this plan by the City Council of the City of Jersey City, provided however that any development or redevelopment projects that are commenced and/or completed within said fifty (50) year period shall be deemed to comply with all applicable laws, so long as they comply with the provisions of this Redevelopment Plan. At the end of this fifty (50) year period, the zoning regulations contained herein shall be incorporated into the zoning ordinance of the City of Jersey City in accordance with the appropriate State statutes.
- I) Any subdivision of lots and parcels of land within the Redevelopment Area shall be in accordance with the requirements of this plan and the Land Development Ordinance (LDO) of Jersey City.

- J) Upon demolition of existing structures, the site shall be graded and planted or sodded, with a durable dust free surface in the interim period prior to construction of new buildings.

K) DEVIATION REQUESTS

The Planning Board may grant deviations from the regulations contained within this Redevelopment Plan, where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions, pre-existing structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective or regulation adopted pursuant to this Redevelopment Plan, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Planning Board may also grant such relief in an application relating to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by a deviation from the strict requirements of this Plan and the benefits of the deviation would outweigh any detriments. Deviations from the required retail use as per section IX shall be considered a design waiver, cognizable by the Planning Board. No relief may be granted under the terms of this section unless such deviation or relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Redevelopment Plan.

No deviations may be granted which will result in permitting:

- 1) A use or principal structure in a district which does not permit such use or principal structure;
- 2) An expansion of a non-conforming use;
- 3) An increase in height of more than ten feet or 10% of the height in feet, whichever is less.
- 4) A breach in the required minimum or maximum building base height requirement of more than 10%;
- 5) An increase in the permitted floor area ratio;
- 6) An increase in the parking ratio of more than 10% above the maximum permitted;
- 7) Breach the minimum or maximum number of permitted stories.
- 8) Right-of-way width, and pavement width beyond normal adjustments encountered during survey synchronization;
- 9) Non-completion of minimum open space, parks, or other type of phased improvements required to be implemented;
- 10) Deviation from the Impact Fees provisions set forth in this Plan; or
- 11) Non-compliance with the specific goals and objectives enumerated in the Plan.

Any deviation in the above categories (1-11) or any other deviation that would otherwise constitute a "d" type variance or deviation constitutes a request for a legislative plan amendment cognizable only by the Governing Body. The Jersey City Zoning Board of Adjustment's powers are strictly limited to "a" and "b" appeals (N.J.S.A. 40:53D-70A&B).

- L) All development projects within Zone 1, Zone 2, or Zone 10 shall be pursuant to a redevelopment agreement approved by the Jersey City Redevelopment Agency. The agreements will be undertaken on a project by project basis.

M) IMPACT FEE

- 1) Redevelopment shall provide adequate water, sewer and other necessary utilities to the site, to the satisfaction of the Municipal Engineer and the Municipal Utility Authority. All costs necessary for infrastructure improvements associated with a development project, off-site as well as on-site, are the responsibility of the developer or redeveloper.

N) PROCEDURES FOR AMENDING THE PLAN

- 1) This Redevelopment Plan may be amended from time to time upon compliance with the requirements of law. A fee of \$5,000.00 plus all costs for copying and transcripts shall be payable to the City of Jersey City for any request by a private entity to amend this plan. The City of Jersey City reserves the right to amend this plan.

O) INTERIM USES

- 1) Interim uses may be established, subject to agreements between the developers and the Planning Board, that such use will not have an adverse effect upon existing or contemplated development during the interim use period. Interim uses may include surface parking provided there is no ingress or egress onto Journal Square itself. Interim uses must be approved by the Planning Board, which may establish an interim use period of between one (1) year and three (3) years in duration, subject to the Planning Board's discretion. Additional renewals of an interim use may be granted by the Planning Board, subject to the same interim period limitations specified above.

V) OTHER PROVISIONS NECESSARY TO MEET REQUIREMENTS OF STATE AND LOCAL LAWS

- A) The Local Redevelopment and Housing Law, N.J.S.A 40A:12A-1 et seq. requires that a Redevelopment Plan shall include an outline for the planning, development, redevelopment, or rehabilitation of the project area sufficient to indicate:
 - 1) This Redevelopment Plan achieves the stated objectives of the Jersey City Master Plan by locating high density development in exceptionally close proximity to mass transit facilities with low parking ratios to reduce the traffic impact of future high density development. Other uses such as retail and office uses compatible with a mixed use transit oriented station area are permitted. The plan also provides for adequate setbacks for the widening of Pavonia Avenue, the continuation of Central Avenue, and improved access to the PATH station as well as requirements for the provision of rooftop recreation space so as to reduce the impact of new development on the City's park system.
 - 2) This Redevelopment Plan provides for a list of permitted principal uses, as well as accessory uses and prohibited uses in the redevelopment area. The plan also provides for density restriction through the use of a maximum floor area ratio, maximum height limits, as well as setback and stepback requirements and various design controls.
 - 3) There will be no displacement of existing residents through the implementation of this plan through condemnation, as this is an area in need of rehabilitation and condemnation is not permitted. Any condemnation action already commenced by the Jersey City Redevelopment Agency may continue. The condemnation of easements in areas previously declared in need of redevelopment may be pursued by the Jersey City Redevelopment Agency.

- 4) The Journal Square 2060 Redevelopment Plan proposes no new acquisition or condemnation of private property for private redevelopment purposes, however the condemnation of easements in areas previously declared in need of redevelopment may be pursued by the Jersey City Redevelopment Agency.
- 5) The area covered by this Redevelopment Plan constitutes the area within walking distance of Jersey City's central business district and the transportation hub for Hudson County. This location is in the very center of Jersey City and is remote from any adjacent municipality. Jersey City is designated as a "Planning Area 1" in the State Plan and is at the center of the Hudson County "urban complex." The development envisioned by this plan is in conformity with the "State Planning Act" P.L. 1985, c. 398 (C.52:18A-196 et al) as well as the master plan of Hudson County and all contiguous municipalities.
- 6) No affordable units are identified to be removed as part of the implementation of this redevelopment plan.
- 7) No affordable units are identified to be removed as part of the implementation of this redevelopment plan.

VI) TRANSPORTATION AND CIRCULATION

- A) The Plan proposes the widening of Pavonia and Oakland Avenues. The western half of Pavonia Avenue between Kennedy Blvd and Summit Avenue was previously widened along the PATH Transportation Center. The remainder of Pavonia Avenue must be widened to match the previous project. This shall be achieved through the dedicating of land to the City along the south side of Pavonia Avenue as shown on *Map 6: Circulation Map*. Oakland Avenue shall also be widened to a total width of 60 feet by a dedication of land along the western side of the Avenue between Newark Avenue and Hoboken Avenue as shown on *Map 6: Circulation Map*.
- B) Central Avenue currently functions as the primary commercial street for the Heights Neighborhood to the north of the Journal Square 2060 Plan area. This Plan proposes a new street to connect Central Avenue in the Heights Neighborhood to Summit Avenue and the Journal Square PATH station. A new street connector is shown on *Map 6: Circulation Map*.
- C) Cook Street is proposed to be vacated and added to Block 8102, provided the Central Avenue connector is constructed.
- D) The Bergen Arches right-of-way runs along State Highway Route 139, connecting downtown Jersey City to the national railway network. This right-of-way has many potential future uses. To insure that future use of this right-of-way can be maximized for public benefit, any development on top of the Bergen Arches shall preserve an at grade public easement along the top of the Bergen Arches tunnel or open cut as shown on *Map 6: Circulation Map*, Right-of-Way Preservation area.
- E) The Journal Square Transportation Center is currently configured with its main entrance on Kennedy Blvd. A secondary entrance is located at the eastern end of the Transportation Center at Magnolia Avenue and currently functions as a kiss-and-ride drop off point. This secondary entrance must be upgraded and redesigned as a new front entry plaza by any developer with greater than 200 linear feet along the Magnolia Avenue right-of-way as required in Zone 1. Improvements shall include decorative sidewalk and

lighting throughout the plaza with bollards to control traffic, street furniture, and other design elements to successfully create an active plaza entryway from Magnolia Avenue.

- F) The Plan envisions a narrow-gauge streetcar line that runs in a dedicated right-of-way along Kennedy Boulevard, Journal Square and Bergen Avenue. This streetcar system is a critical north/south component of a comprehensive transit network designed to service Journal Square and surrounding neighborhoods. A streetcar system will ensure that new and existing developments along Kennedy Boulevard and Bergen Avenue have convenient access to the Journal Square Transportation Center and proposed extensions of the Hudson Bergen Light Rail in the Bergen Arches. The Redevelopment Plan recommends that a streetcar run from the intersection of John F. Kennedy Boulevard and Route 139 to Bergen Avenue at McGinley Square (see Map 6). During the development of a streetcar system, a dedicated bus lane should be implemented along the streetcar right-of-way. All stops should be permanent and substantial in nature. A transitional bus along the streetcar route can help establish a riding habit among Journal Square residents and encourage transit appropriate development along the eventual streetcar corridor. The streetcar may be extended in the future to service additional neighborhoods as part of a comprehensive bus rapid transit system for Jersey City.
- G) Bus priority lanes should be provided within Sip, Pavonia, and Summit Avenues to accommodate a western waterfront bus rapid transit (BRT) system. A BRT line that connects the western waterfront corridor to the Journal Square Transportation Center is necessary to support the development and redevelopment of Jersey City's western waterfront. At the time of this writing, the City of Jersey City is developing a concept design for a two directional BRT route that runs along the Routes 440 and 1&9 Truck corridor between Danforth Avenue and Sip Avenue, and connects to the Journal Square Transportation Center via Sip Avenue. The route will have loop turnarounds at each end. The southern turnaround will be in the vicinity of Danforth Avenue, and the northern turnaround will be at the Journal Square Transportation Center via Pavonia, Summit and Sip Avenues. In order to accommodate the BRT route as it traverses the Journal Square area, the full length of Sip Avenue between Garrison Avenue and the transportation center should be designed to include bus priority lanes so that the BRT vehicles are not delayed by general traffic. These lanes may be placed within the existing right-of-way or cartway, and may be comprised of two one-directional lanes, or one reversible lane that is eastbound during the AM peak and westbound during the PM peak. Additionally, to accommodate the loop turnaround at Journal Square, Pavonia, Summit and Sip Avenue should be designed to include bus priority lanes so that BRT vehicles departing Journal Square for Route 440/1&9T via Sip Avenue are not delayed by general traffic.

VII) DESIGN REQUIREMENTS FOR ALL ZONES

A) GENERAL REQUIREMENTS

- 1) All structures within the project area shall be situated with proper consideration of their relationship to other buildings, both existing and proposed, in terms of light, air and usable open space, access to public rights of way and off-street parking, height and bulk.
- 2) All minimum building height requirements shall be measured as stories above sidewalk grade. No mezzanines or split levels or any floor partially below grade shall be considered for minimum height requirements (see building height tables for each

zone district). All floors necessary to meet the minimum height requirement must be approximately equal in floor area. No required minimum floor may be less than 60% of the first floor area at grade.

- 3) All lots at the time of adoption of this plan are conforming lots for development, however any newly created lots or development sites through subdivision or consolidation shall have a maximum shape factor of 30. Shape factor is defined as the perimeter of the lot squared, divided by the lot area ($\frac{\text{Perimeter}^2}{\text{area}}$).
 - (a) Example for a standard 25' by 100' rectangular lot:
perimeter = 250'
perimeter squared = 62,500
area = 2500 square feet
shape factor is $\frac{62500}{2500} = 25$
- 4) Groups of related buildings shall be designed to present a harmonious appearance in terms of architectural style and exterior materials and shall be encouraged to incorporate historic elements found throughout the surrounding area.
- 5) Buildings shall be designed so as to have an attractive, finished appearance when viewed from all vantage points within and outside of the project area. Front facades, facades which are visible from a public right-of-way, and all facades that are significantly taller than adjacent buildings or are visible as part of the Journal Square skyline shall be treated with equal importance in material selection and architectural design.
- 6) Large blank walls without fenestration surrounding large residential or commercial uses such as theatres, parking garages, bowling alleys, big box retail, or similar uses must incorporate facade relief, an expressed structural system, sculpted, carved or penetrated wall surfaces, architectural lighting, or other architectural techniques to provide visual interest.
- 7) Access by the elderly, physically handicapped and/or disabled shall meet barrier free design regulations as specified in the New Jersey and Federal ADA Standard Uniform Construction Code.
- 8) All utility distribution lines, including multi-media telecommunication lines, and utility service connections from such lines to the project area's individual use shall be located underground.
- 9) All adaptive reuse of existing structures shall not be required to meet minimum building height requirements.
- 10) Roof treatment, Mechanical Screening and Electrical Equipment
 - (a) All mechanical equipment located on any roof of a building shall be screened from view from all vantage points with a material complementary with the façade of the structure. The screening shall not resemble a utility or rooftop elevator or stair tower. It shall instead resemble an upper level extension of the building and be designed to contribute to the building top design.
 - (b) A roof plan must be developed and submitted for approval. Roof plans shall include mechanical equipment, trellises to obscure view, colored roof patterns and landscaping. Parking deck roofs shall be designed to maximize recreational amenity space and all remaining rooftop areas shall be developed as a green roof.

- (c) All electrical communication equipment shall be located in such a way that it does not negatively impact the appearance of the building nor create objectionable views as seen from surrounding structures.
- (d) Transformers and primary and back-up generators shall be located interior to the building or vaulted underground within the pavement area of an adjacent street. Location upon the sidewalk, between the sidewalk and the building, or anywhere outside at grade is not permitted.
- (e) The placement of all new or reconstructed signal boxes is required to be below grade.
- (f) The screening of all new or reconstructed telecom equipment is required.

11) Streetscape

- (a) All buildings shall be designed to front on a public street to create a street wall and a pedestrian environment at a human scale.
 - (b) Main entrances into buildings shall be located on all public streets. Secondary entrances shall also be provided from parking areas and/or as necessary according to the design of the structure.
 - (c) Entrances shall be designed to be attractive and functional. Indicators such as awning, changes in sidewalk paving material or other indicator consistent with the design, proportions, material and character of the surrounding area shall be provided.
 - (d) Automobile parking between the building line and a public right-of-way is expressly prohibited, even where surface parking is a permitted use. Parking is not permitted in any front yard.
 - (e) Porte-cocheres and drop-off lanes are prohibited.
- 12) A cornerstone marking the date of construction shall be located in an appropriate ground level corner of any building five or more stories. The cornerstone shall be incorporated into the primary facade material.
 - 13) Overhead walkways (skywalks) connecting buildings and or parking above streets or rights-of-ways are prohibited.
 - 14) All facade vents for air conditioning or heating units must be incorporated into the window design such that vent grills and windows appear as a single unit. This is best achieved by lining up vent grills with the vertical or horizontal edge of the adjacent window and matching the window's length or width or using a spandrel panel to fill any voids.
 - 15) All new sidewalk concrete shall be tinted charcoal grey or equivalent tint. The Planning Board may grant a waiver for superior design which relates to adjacent architecture or other public purpose.
 - 16) All storefronts shall incorporate a cornice element or horizontal projection above the storefront glazing separating ground floor uses from the building above.
 - 17) Ground floor storefront bulkheads below the display windows shall be a maximum of 18 inches in height above sidewalk grade.
 - 18) All storefront facades shall incorporate a minimum of 80% transparent glass.
 - 19) All ground floor entryways shall be recessed or designed to avoid door swings into any public right-of-way.

- 20) All large residential development projects are strongly recommended to include provisions for a dog run.

B) FLOOR HEIGHT MINIMUM

- 1) Residential floor-to-ceiling heights must be a minimum of 9 feet and a maximum of 12 feet, **excepting drop ceilings in kitchens, bathrooms, corridors, and other similar spaces.**
- 2) A ground floor residential use (where permitted) must be 3 feet above sidewalk grade or set back from a front property line by 3 feet and screened with raised landscaping enclosed by a minimum 6x6 inch masonry curb. Building lobbies may be at grade for ADA accessibility.
- 3) Ground floor floor-to-ceiling height minimums for a non-residential use are regulated by the following table:

Building Height	Minimum First Floor Height	Maximum First Floor Height	Maximum First Floor Height within 30' of a Rear Lot Line
2 to 6	12'	18'	12'
7 to 12	15'	20'	12'
13 and up	20'	30'	12'

Table 1

C) SPECIAL REQUIREMENTS FOR A TOWER ON A BASE

- 1) When indicated in the Building Stepback Tables in each Zone district, the following "Tower on a base" requirements shall apply.
- 2) All buildings shall have a base, which shall be designed according to the following:
 - (a) Building base height requirements:

Base Height Requirements by Zone (In feet)		
Zone	Minimum	Maximum
1	50'	75'
3	30'	60'
10	30'	45'

Table 2

- (b) As an alternative to the chart above, building base heights may be contextual to match the adjacent buildings heights, or match the mean or mode building height on the block.
 - (c) A project on Block 9501, Lot 23 fronting onto the Journal Square Plaza is permitted a base height of ~~95~~-150 feet, and may provide enclosed recreation facilities.
- 3) Towers shall be setback from the front lot line a minimum of 10 feet for sites with a lot depth of 100 feet or less. Tower setback shall be a minimum of 15 feet for sites with a lot depth of more than 100 feet.
- 4) Towers shall be setback from side lot lines a minimum of 20 feet.

- 5) Maximum tower length or width dimension is 150 linear feet for primarily residential or hotel use buildings.
 - 6) Maximum tower length or width dimension is 200 linear feet for primarily office use buildings.
 - 7) Where the tower base abuts a lower density zone, the base of a tower shall be set back from side lot line a minimum of 10 feet and the tower shall be setback a minimum of 30 feet.
 - 8) Tower bases must set back 30 feet from any adjacent property's rear property line, except the ground floor which may cover 100% of the lot.
 - 9) Front yard setback requirements for each Zone shall apply.
 - 10) Building Base Design Requirements:
 - (a) A visual cue or indicator such as a cornice, belt coursing, a significant change in the glass to solid ratio, or any other indicator consistent with the design, proportions, and materials shall be provided at the top of the base.
 - (b) Decorative features and materials are required to provide detail and interest to the pedestrian level of the building.
 - (c) Building bases shall be constructed of durable material of high quality, including but not limited to glass, stone, brick, textured concrete, metal paneling, etc. Glass shall constitute a minimum of 80 % of the ground floor storefront facades (see ground floor height minimum).
 - (d) A decorative screening facade may substitute for glass to wrap parking facilities, subject to approval by the Planning Board.
 - (e) Retail and/or other permitted uses are required along all public rights-of-way, with a minimum depth of twenty-five (25) feet. No more than fifteen (15) percent of the first floor street frontage and no more than 30 consecutive linear feet along a public right-of-way may be dedicated to other uses such as meter rooms, blank walls, emergency exits, etc.
 - (f) First floor retail height shall be regulated by the ground floor floor-to-ceiling height table in Table 1 above.
 - 11) Building Tower Design Requirements:
 - (a) A visual cue or indicator such as a cornice, belt coursing, a significant change in the glass to solid ratio, or any other indicator consistent with the design, proportions, and materials shall be provided at the top of the tower.
 - (b) Building towers shall be constructed of durable material of high quality, including, but not limited to glass, stone, textured concrete, brick, metal paneling etc. Glass shall constitute a minimum of 40 % of the facade.
 - (c) Building towers are required to have a minimum separation distance of 50 feet.
- D) PARKING STANDARDS**
- All parking shall be provided in multi-tiered structures, automatic garages, or within a structure. Parking structures shall meet the following requirements:
- 1) Bicycle Parking Provisions: Bicycle parking shall be provided pursuant to the requirements found in the Jersey City Land Development Ordinance.
 - 2) Automobile Maximum Parking Ratios By Use:
 - (a) For lots of less than 60 feet in width: no parking is permitted.
 - (b) Residential uses may provide up to a maximum of 0.5 off-street parking space per dwelling unit.

- (c) Office and other commercial uses may provide up to a maximum of 0.5 spaces per 1000 square feet of gross floor area.
 - (d) Retail, restaurants, bars, nightclubs and health clubs may provide up to a maximum of 0.5 space per 1000 square feet of gross floor area.
 - (e) Theaters may provide up to a maximum of 1 space per 20 seats.
 - (f) Hotels may provide up to a maximum of 1 space per every 3 rooms.
 - (g) Public/semi-public uses may provide a maximum 0.5 space per 1000 square feet of gross floor area.
 - (h) Colleges and Universities may provide a maximum of 1 space per faculty and administrative member per 8 hour shift.
 - (i) All other uses may provide a maximum 0.5 space per 1000 square feet of gross floor area.
 - (j) Public parking garages as a stand alone use are exempt from the parking maximum.
- 3) Automobile Parking Provisions
- (a) Commuter parking is prohibited.
 - (b) Semi-annual reporting of the parking pricing and usage shall be provided to the Director of the Division of City Planning and the Chairman of the Jersey City Planning Board in a format and detail similar to the semi-annual parking report submitted for the Newport Redevelopment Plan Area.
 - (c) To assure the most efficient and effective use of the parking resources located within the Redevelopment Area, shared use of the parking facilities is encouraged.
- 4) Design Standards:
- (a) In any building over six stories, or any stand-alone parking structure, a parking level at grade may not contain any parking or mechanical floor area adjacent to the sidewalk/street frontage. Atrium, lobby, and/or retail space shall occupy these areas with a minimum depth of 25 feet.
 - (b) In any building under six stories, a parking level at grade shall be set back from the sidewalk a minimum of 3 feet to provide for landscaping, screening the parking use.
 - (c) For stand alone parking structures, the ground floor retail use shall be a minimum height of 15 feet and a depth of 25 feet.
 - (d) Any parking structure shall be designed to eliminate headlight glare by the provision of opaque screening for head lights and placement of interior garage lighting to be directed into the structure and/or mounted on the interior side of columns so as to prevent glare from such lighting to be visible from the street or adjacent property. Light fixture details and location shall be included within the garage floor plan at the time of site plan application.
 - (e) The facade of all parking levels shall be of a compatible material to that used throughout the development or adjacent structures and shall be designed to provide visual interest.
 - (f) All openings must be screened with glass or decorative façade materials. Any openings shall be in a vertical proportion. Open horizontal bands along the façade of any parking structure are prohibited.

- (g) Exterior lighting of the screening materials on a parking structure façade may be required by the Planning Board in order to provide additional visual interest in terms of light and shadow and to further mask the interior lighting of the parking structure and headlight glare.
- (h) All pedestrian access points shall be provided at street level and designed to encourage street activity. Overhead or elevated pedestrian or vehicular connections are prohibited.
- (i) All parking spaces shall be 9 feet wide by 18 feet deep. Compact parking spaces (8x15), may be provided, up to fifty (50) percent of approved parking spaces.
- (j) Aisle widths shall conform to the following standards:
 - (i) 90 degree parking 22' wide two-way aisle
 - (ii) 60 degree parking 18' wide one-way aisle
 - (iii) 45 degree parking 15' wide one-way aisle
 - (iv) 30 degree parking 12' wide one-way aisle
- (k) All one-way aisles shall be clearly designated.
- (l) All automatic garage parking is exempt from the above space and aisle dimension requirements.
- (m) Off-street parking and loading areas shall be coordinated with the public street system serving the project area in order to avoid conflicts with through traffic or obstruction of pedestrian walks and thoroughfares.
- (n) Surface parking lots (as an interim use) and all loading areas, shall provide a screen planting of dense evergreens along any street line and along all property lines except those instances where a building intervenes or where the proposed planting may interfere with sight triangles. Within the parking area, a minimum of three percent (3%) of the parking area shall be landscaped and maintained with shrubs no higher than three (3) feet and trees with branches no lower than six (6) so that the landscaping is dispersed throughout the parking area.
- (o) The number and design of off-street loading spaces shall be demonstrated by an applicant according to an anticipated need. All freight loading activities are encouraged to be restricted to early morning and/or late evening hours. The design and number of off-street loading shall be regulated by the Jersey City Land Development Ordinance.
- (p) Drop off areas may be required for uses generating organized pick-up and drop-off services such as, but not limited to, medical offices.
- (q) All entry ways to off-street parking and loading structures shall incorporate decorative materials coordinated with the primary base façade on all surfaces twenty-five (25) feet deep into the structure to create an attractive view from the sidewalk and adjacent pedestrian areas.
- (r) Parking and service access should not be located on the main traffic oriented streets. A head-in/head-out design is required for all loading and parking facilities. For parking facilities with 30 spaces or less, driveway widths shall be a maximum of 12 feet. For all other parking facilities, driveway widths shall be a maximum of 18 feet.
- (s) Direct new development to minimize pedestrian and traffic conflicts.
- (t) All site plan application for parking structures should demonstrate the ability to provide for electric vehicle charging stations in the future.

- 5) Below grade parking is permitted to cover 100% of the lot and shall not be counted against permitted FAR.
- 6) All developments which propose valet parking shall submit a parking management plan. Such plan shall include but not be limited to: number of vehicles to be parked, number of rows of cars to be stacked, all parking stall and aisle widths and any other information deemed necessary to effectively evaluate the management plan. All parking management plans shall be subject to review and approval of the Division of Traffic Engineering, the Division of City Planning and the Planning Board. Valet parking schemes shall not be permitted to increase the total number of parked cars above the maximum number of permitted spaces.

E) OPEN SPACE DESIGN REQUIREMENTS

- 1) Where possible, new structures surrounding or enclosing open space should be designed and sited to allow the greatest penetration of sunlight onto open space areas throughout the year.
- 2) Open space shall provide visual and functional elements such as bicycle parking, benches, seating walls, drinking fountains, refuse containers and planters, and public fountains. Open space amenities shall include decorative material such as: stone pavers, brick pavers, asphalt pavers, stamped and tinted concrete, and decorative lighting and detailing.
- 3) Adequate lighting shall be provided to encourage active usage and a sense of security in the open space.
- 4) Open space shall be distributed so as to provide for maximum usability.
- 5) Through creative design, open space features shall address the need for human comfort and enjoyment and provide both active and passive leisure uses for secure and pleasant outdoor and indoor settings to meet public and private use requirements. Open space and plazas shall be designed at a human scale to invite and attract the public.
- 6) Open space shall be oriented to maximize views.
- 7) As a general guide, one (1) linear foot of seating for each linear foot of plaza perimeter shall be provided. Seating space may include planters, benches, fountains, etc.

F) LANDSCAPING AND LIGHTING REQUIREMENTS

- 1) Landscaping shall be required for any part of any parcel not used for buildings, off-street parking, plaza areas or loading zones. The developer's plan shall include proposals for landscaping indicating the location, size and quantity of the various species to be used.
- 2) All plant material used must be able to withstand an urban environment. All screen planting shall be a minimum of 4 feet high and shall be planted, balled and burlapped as established by the American Association of Nurserymen. A planting schedule shall be provided by the developer and approved by the Planning Board. Ground cover shall be used in place of mulch.
- 3) All new trees shall be of a species and gender so as to minimize fruit and pollen.
- 4) Any landscaping which is not resistant to the environment or dies within 2 years of planting shall be replaced by the developer.
- 5) Underground watering facilities shall be required for all landscaped areas. Hose bibs shall be provided immediately adjacent to planting areas abutting a building.

- 6) Street trees shall be planted along curb lines of streets in a regular pattern, spaced at one-half the mature spread of the tree canopy to further enhance the aesthetic quality of the redevelopment area. All trees shall be a minimum of four (4) inches in caliper.
- 7) Lighting within the site shall sufficiently illuminate all areas, including those areas where buildings are setback or offset to prevent dark corners.
- 8) All lighting sources must be adequately shielded to avoid any off-site glare. The area of illumination shall have a uniform pattern of at least one-half (0.5) foot candles.
- 9) All landscaping must be fully enclosed by curb or seating wall constructed of a masonry or metal material with a minimum of 6 inch in height. Landscaping shall be elevated to match the height of the curb or seating wall. Fencing is discouraged, but may be set into the required curb.

G) GREEN BUILDING REQUIREMENTS

- 1) For new construction projects with more than 9,000 square feet of roof top area, 90% of all roof top area not used for recreation space, solar panels, elevator or stair housing or other areas necessary for mechanical equipment must be a "green roof".
- 2) All plumbing fixtures must demonstrate a 30% improvement over US EPA 1992 Energy Policy Act standards. All new toilets must be a dual-flush design and use an average of 1.28 gallons per flush or less and achieve the US EPA HET standard. All new shower heads and faucets must be equipped with aerators or other mechanisms to reduce water flow.
- 3) All new construction must demonstrate 15% improvement in energy efficiency of the building envelope and mechanical systems over ASHRAE 90.1 2007 or the most recently adopted energy standards by NJ Department of Energy.
- 4) All paints and carpets must be "low VOC" generally defined as having less than 60 grams per liter of volatile organic compounds.
- 5) All new installed appliances must be Energy Star rated. All light bulbs must be Energy Star rated, LED, or utilize other energy saving features such as dimmers, motion detectors, etc.
- 6) The recycling and reuse of grey water is encouraged when feasible.

H) BUILDING AMENITY REQUIREMENTS

- 1) All buildings with 4 or more units must provide a washer/dryer room in the building or a washer/dryer within each unit.
- 2) Buildings with over 50 units must include at least 2% of the units designed with 3 bedrooms or more.
- 3) Buildings with 4 or more floors must provide an elevator.
- 4) A minimum of 20% of the lot area must be dedicated to useable recreation space by occupants, **or plaza areas accessible by the public**. This space may be placed in a rear yard or on a roof. Roof decks are encouraged and may be necessary to achieve this requirement.
- 5) Showers and other facilities necessary to support people biking to work is required in all office buildings and other major centers of employment greater than 100,000 square feet.

I) BUILDING MATERIALS REQUIREMENTS

- 1) Synthetic stucco materials such as EIFS is prohibited. Any stucco material used must be fine grained with a smooth finish to reflect a more stone like appearance and qualities of light reflection.

- 2) Concrete block may not be used as a decorative finish on any facade.
- 3) Exterior doors including emergency exits and utility access shall not be secured with a pad lock. All door must include a built in lock mechanism.
- 4) Brick facades are encouraged to utilize multi toned brick selections with at least 3 tones so as not to create a dull or flat brick facade.
- 5) Front cantilevered balconies may project no more than 12 inches from the facade where located within 45 feet from grade or on the base of any "tower on a base" building design (see Section IV: C). Above a stepback, balconies may extend no more than the width of the stepback.
- 6) Use of chain link fencing, razor wire, barbed wire, or other similar security devises is expressly prohibited. Chain linked fencing may be temporality utilized during construction only.
- 7) Security Gates: All front security gates shall be completely composed of the open mesh type, except for two feet at the bottom of the gate which may be solid. Storage boxes for all security gates shall be mounted on the interior of the building. Gate tracks shall be recessed into the glazing reveal and the gate housing shall be flush with the plane of the storefront. No storage box, tracks or mechanical devices related to the gates may project from the plane of the storefront.

VIII) SIGNAGE REGULATIONS

A) Signage Approval Process

- 1) All signs are subject to site plan review when included as part of a major site plan application.
- 2) All temporary banner signs for marketing projects on site shall be considered as an interim use.
- 3) All new signage (except billboards) that complies with the redevelopment plan shall not require site plan approval.
- 4) Minor Site Plan application with deviation must be submitted to the Planning board for all non-conforming sign proposals.
- 5) Any signage (except billboards) more than 45 feet above grade is not permitted in this Redevelopment Plan. All requests for this type of signage constitutes a minor site plan application with deviation.
- 6) Billboards or theater marquees are subject to minor site plan review.
- 7) During construction, one (1) temporary sign indicating: the name of the project or development, general contractor, subcontractor, financing institution and public entity officials (where applicable) shall be permitted. The sign area shall not exceed forty (40) square feet.

B) Number and Size of Signage

- 1) The building address is required to placed on either the main entry door, transom window, building, or awning flap at a maximum font height of 10 inches.
- 2) Corner lot development is encouraged to display the street names on the building facade or imprinted into the sidewalk.
- 3) Sign requirements along all Rights-of-Way where retail is mandatory (see *Map 4: Required Retail Use Map*):
 - (a) For retail, restaurants, bars, nightclubs, and other similar ground floor uses:

- (i) Each use fronting on a public street may be permitted one (1) exterior sign per store front bay on each street frontage.
 - (ii) Maximum sign height shall be 32 inches.
 - (b) All other uses:
 - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per entryway per street frontage. Buildings with multiple uses shall have no more than one (1) sign per use.
 - (ii) The total exterior sign area shall not exceed the equivalent of 5 percent of the first story portion of the wall to which it is attached. In no case shall a sign on any structure exceed 20 square feet.
 - 4) Sign requirements along all Rights-of-Way where retail is not required (see *Map 4: Required Retail Use Map*):
 - (a) For retail, restaurants, bars, nightclubs, and other similar storefront uses:
 - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per store front bay on each street frontage.
 - (ii) Maximum sign height shall be 18 inches.
 - (b) All other uses:
 - (i) Each such use fronting on a public street may be permitted one (1) exterior sign per entryway per street frontage. Buildings with multiple uses shall have not more than one (1) sign per use.
 - (ii) The total exterior sign area shall not exceed the equivalent of two (2) percent of the first story portion of the wall to which it is attached. In no case shall a sign on any structure exceed 8 square feet.
 - 5) Signage along Kennedy Boulevard between Tonnele Avenue and Van Reipen Avenue may exceed size and placement limitations by design waiver request to the Planning Board as part of a minor site plan application.
- C) Sign Design Requirements
- 1) All signs shall be attached to the first floor level of the building only, although blade signs may be attached to the first or second floor façade.
 - 2) All wall signs shall be flush mounted;
 - 3) All blade signs shall project no more than 30 inches from the facade and the bottom of the sign must be a minimum of 9 feet above the sidewalk.
 - 4) Window signs (other than lettering and logos as specifically permitted) shall be prohibited. Lettering or logos shall be limited to decorative metal leaf, flat black or etched / frosted glass style lettering and shall be limited to the name of the business occupying the commercial space / storefront and shall cover no more than twenty (20%) of the window area.
 - 5) Permitted signage material includes:
 - (a) Painted wood.
 - (b) Painted metals including aluminum and steel.
 - (c) Brushed finished aluminum, stainless steel, brass, copper, or bronze.
 - (d) Carved wood or wood substitute.
 - (e) Channel letters.
 - 6) Permitted lettering material includes:
 - (a) Lettering forms applied to the surface of the sign.
 - (b) Single colored lettering forms applied to the surface of the sign.

- (c) Metallic solid body letters with or without returns.
- (d) Painted acrylic or metal letter.
- (e) Vinyl lettering attached permanently to a wood, wood substitute or metal signboard.
- 7) Signs may be lit from backlit halo, and up-lights.
- 8) Storefront windows shall not be blocked by any interior display case or other form of barrier. Pedestrians on the street shall have the ability to see into the shop and view the activity within.
- 9) Signs may include the name of the store only. Building address, phone number, operating hours and other additional information may be stenciled on the door.
- D) Parking Garage Signage
 - 1) One (1) sign shall be provided per entrance to garages indicating the parking facility by the international parking symbol and direction arrow. The sign area shall not exceed twenty (20) square feet. If applicable, one (1) sign per entrance may be allowed indicating parking rates, not to exceed eight (8) square feet.
 - 2) Portable signs are not permitted for parking garages.
- E) Billboard Requirements
 - 1) Billboards are only permitted within a 400 foot radius of the intersection of the center lines of Kennedy Boulevard and Bergen Avenue.
 - 2) Billboards are permitted only on building rooftops greater than 30 feet above grade. Billboards may also be permitted on a building facade only at the discretion of the Planning Board and only for the purpose of screening a blank wall or parking structures and within the 400 foot radius described above.
 - 3) All billboards are required to be coplanar, (placed in the same plane) with the building facade.
 - 4) Billboards may not exceed 20 feet in height and are required to be the same width as the portion of the facade it is built coplanar to.
 - 5) All support structures shall be screened from view from all public rights-of-way by the face of the billboard.
- F) Prohibited Signs
 - 1) Freestanding signs, except for those indicating direction, transportation, circulation and parking are prohibited.
 - 2) Portable advertising signs not associated with use within 10 feet are strictly prohibited.
 - 3) Product advertising signage of any kind.
 - 4) Signage attached to parking meters, light poles, benches, or other street furniture.
 - 5) Monument signs
 - 6) Internally or externally illuminated box signs
 - 7) Flashing or animated signs, spinners, pennants, reflective materials that sparkle or twinkle
 - 8) Window signs, posters, plastic or paper that appear to be attached to the window.
 - 9) Pole signs.
 - 10) Waterfall style or plastic awnings.

IX) REQUIRED LAND USE REGULATIONS

- A) Retail and/or other permitted active storefront type uses, which activate the adjacent sidewalk, are required along all public rights-of-way where indicated on *Map 4: Required Retail Use Map*. Active storefront type uses include, but not limited to, retail, storefronts, building lobbies, art galleries, bars and restaurants.
- 1) Minimum depth of retail use shall be twenty-five (25) feet.
 - 2) No more than fifteen (15) percent and no more than twenty (20) consecutive linear feet may be dedicated to other uses such as meter rooms, blank walls, emergency exits, etc.
 - 3) Ground floor residential is only permitted if necessary to meet the requirements of the Americans with Disabilities Act, there is no elevator access, and provided the following conditions are met:
 - (a) Must be situated behind the retail use.
 - (b) The building must maintain a minimum of 600 square feet of retail space at grade level and at the front of the building.
 - (c) The building must incorporate a cellar not less than 600 square feet or 50% of the building's footprint, whichever is greater, to provide storage space for the retail use and for the location of trash rooms, mechanical rooms, meters or other infrastructure needs of the building so as to maximize available retail space at the ground floor level. Additional space may be allocated to residential tenants.

X) SPECIFIC LAND USE REGULATIONS

A) ZONE 1: CORE

The purpose of this zone is to provide for high-density, high-rise construction on parcels immediately adjacent to the Journal Square Transportation Center. As the center of the Journal Square plan with the greatest access to both heavy rail and bus transportation systems, this block has the greatest potential to provide housing, office space, and other uses in a transit oriented manner.

- 1) Permitted Principal Uses:
 - (a) Mid and High-rise Residential: no residential units permitted on the ground floor.
 - (b) Retail Sales of Goods and Services/Financial Services.
 - (c) Office: Permitted everywhere except ground floor.
 - (d) Art galleries
 - (e) Live/Work units and home occupations: except on the ground floor.
 - (f) Restaurants, category one and two.
 - (g) Hotels/Bed and Breakfast.
 - (h) Theaters.
 - (i) Child/Adult Day Care Centers: except on the ground floor.
 - (j) Night Clubs/Bars.
 - (k) Schools.
 - (l) Community Centers.
 - (m) Museums.
 - (n) Government uses.
 - (o) Billboards: as per billboard requirements in Section VII: E above.
 - (p) Any combination of the above
- 2) Accessory Uses
 - (a) Structured parking and loading

- (b) Fences and seating walls
- (c) Landscape features
- (d) Improved Open Space
- (e) Signs
- (f) Rooftop Recreation
- (g) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
 - (a) Surface parking as a principal or accessory use.
 - (b) Drive-through facilities pertaining to restaurants, banks, pharmacies, and other drive through uses
 - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
- 4) Lot Size and Dimension Requirements
 - (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivisions must conform to the following minimum standards:
 - (i) Minimum lot area: 10,000 square feet.
 - (ii) Minimum lot width: 100 feet.
 - (iii) Minimum Lot Depth: 100 feet.
 - (iv) Shape Factor Maximum: 30
- 5) Maximum Floor Area Ratio (FAR) Standards
 - (a) The permitted Floor Area Ratio (FAR) for any new development shall be regulated according to the following table:

LOT SIZE (Square Feet)		Maximum Permitted FAR (residential primary use)	Maximum Permitted FAR (office primary use)
From	To		
0	5,999	4	4
6,000	19,999	8	6
20,000	29,999	16	8
30,000	59,999	20	12
60,000	and up	25	16

Table 3

- (b) The Floor Area Ratios in Table 3 above are inclusive of all built structures at or above grade including, but not limited to parking decks, lobbies, hallways, building core, common areas, etc.
- (c) Buildings over 210 feet must comply with "tower on a base" design requirements in Section VII: C.
- 6) Minimum Building Height Requirement
 - (a) The minimum height for any new building shall be sixty-five (65) feet.
- 7) Yard Requirements
 - (a) Front Yard Requirements:
 - (i) Front yard setback shall be sufficient to provide the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption.

Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the required front yard setback shall be 10 feet.

(b) Side Yard Requirements:

- (i) Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows or as per the "Tower on a Base" requirements in Section IV: C.

(c) Rear Yard Requirements:

- (i) No rear yard is required.

- 8) Sidewalk and streetscape elements shall complement the established design, color, materials and street furniture of the Journal Square Streetscape improvements.
- 9) ~~The current public pedestrian access easement that traverses the Block 9501, Lot 23 and provides access between Sip Avenue and Concourse East shall be maintained at grade level. Its location may be shifted to the eastern edge of Block 9501, Lot 23, parallel to the Hudson County College walkway and provide a minimum width of 15 feet. The existing College pedestrian walkway along the western side of Lot 22 on Block 9501 shall be maintained. Any project on Block 9501, Lot 23, shall provide ground floor retail frontage along Concourse East, and shall provide the west side of the pedestrian walkway on Lot 22 an active frontage or retail to create a quality pedestrian access to Concourse East from Sip Avenue, excepting areas necessary for loading and unloading.~~
- 10) Improvement shall be provided to Concourse East to insure a seamless connection between the projects and usable shared sidewalk.
- 11) It is required that Pavonia Avenue be widened by approximately ten feet (10') on the South side, in-line with a previous street widening in front on the Journal Square Transportation Center. The required setback along Pavonia Avenue therefore must be sufficient to accommodate this street widening as well as the required sidewalk width of twenty (20') feet, totaling an approximate thirty (30) foot setback from the existing curb line along this section of Pavonia Avenue. The land necessary for this right-of-way improvement shall be dedicated to the City. All setback and stepback requirements shall be measured from the new property lines created.
- 12) A maximization of lot coverage and FAR is being permitted as a component of this zone due to its proximity to the Journal Square PATH station. At grade open space is not required on site, but instead must be provided as improvements to the Magnolia Ave kiss-and-ride drop off area as described in section VI) E above by any development adjacent to Magnolia Avenue for a length greater than 200 linear feet. Any developer that triggers this provision shall fund, improve, and maintain this new plaza entry way for the Journal Square Transportation Center. Any development application for building under this provision shall include the site plan development improvements for the plaza as part of the same application. Construction of the plaza shall be completed simultaneously with the principal building.

B) ZONE 2: AIR-RIGHTS

- 1) The sole permitted use in this zone is for transportation uses. It is desirable in the future to deck over the existing rail tracks and develop the air rights above for a variety of uses, including office, commercial and residential uses, and to incorporate public open space to create landscaped pedestrian plazas that form a continuous link

from the Journal Square PATH station to the surrounding neighborhoods from Baldwin Avenue to Garrison Avenue. Recommended pedestrian corridors are shown on *Map 5: Required Sidewalk Width* and *Map 6: Circulation*. Building heights, forms, and permitted uses are to be determined as a future amendment to this redevelopment plan.

C) ZONE 3: COMMERCIAL CENTER

The purpose of this zone is to provide for an active and intensive use of parcels surrounding the Journal Square Transportation Center. With close proximity and short walking distances to heavy rail and bus transit systems, this zone complements the established commercial center of Jersey City.

1) Permitted Uses:

- (a) Residential: permitted everywhere except on the ground floor of buildings greater than 65 feet in height.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices: permitted everywhere except on the ground floor of buildings greater than 65 feet in height.
- (d) Art galleries.
- (e) Live/Work units and home occupations: except on the ground floor of buildings greater than 65 feet in height.
- (f) Restaurants: category one and two.
- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.
- (h) Hotels/Bed and Breakfast.
- (i) Medical Offices
- (j) Child and Adult Day Care Centers.
- (k) Theatres/Night Clubs/Bars.
- (l) Schools
- (m) Museum
- (n) Government uses.
- (o) Billboards: as per billboard requirements in Section VII: E above.
- (p) Any combination of the above.

2) Accessory Uses

- (a) Fences and seating walls.
- (b) Landscape features.
- (c) Improved Open Space.
- (d) Signs.
- (e) Rooftop Recreation.
- (f) Sidewalk Cafe: where sidewalk width permits.

3) Prohibited Uses

- (a) Surface parking as a principal or accessory use.
- (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
- (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).

4) Lot Size and Dimension Requirements

- (a) All existing lots at the time of adoption of this plan are conforming lots.
- (b) Subdivisions must conform to the following minimum standards:
 - (i) Minimum lot area: 7500 square feet.
 - (ii) Minimum lot width: 75 feet.
 - (iii) Minimum Lot Depth: 100 feet.
 - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
 - (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
- 6) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)
	0 to 2499	3 / 32'	3 / 34'
25x100	2500 to 4999	3 / 32'	5 / 54'
50x100	5000 to 7499	4 / 42'	8 / 85'
75x100	7500 to 9999	5 / 52'	10 / 105'
100x100	10000 to 12499	5 / 52'	18 / 195'
125x100	12500 and up	5 / 52'	25 / 265'

Table 4

- 7) Building Stepbacks: To provide light and air to adjacent lots, buildings taller than 4 stories must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1	none	none	none
2 to 5	none	none	15'
6 to 10	none	none	20'
11 to 18	10'	15'	30'
19 and up	See Tower on a Base Section VII: C		

Table 5

- 8) Yard Requirements
 - (a) Front Yard Requirements:
 - (i) Front yard setback shall be sufficient to provide the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption.
Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the required front yard setback shall be 10 feet.
 - (ii) Up to 30% of a building façade may be set back up to an additional 10 feet to

accommodate outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.

(b) Side Yard Requirements:

- (i) Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows or as per the "Tower on a Base" requirements in Section IV: C.

(c) Rear Yard Requirements:

- (i) No rear yard is required, however a building step back above the ground floor is required as per Table 5 above.
- (ii) For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.
- (iii) Corner lots shall adhere to the side yard requirements above provided that the wall of any proposed building above the ground floor shall not extend along the adjoining lot line for a depth of greater than 85 feet from the street line.

D) ZONE 4: NEIGHBORHOOD MIXED USE

The purpose of this zone is to provide for new housing, office space, and other uses on parcels within a 10 minute walk of the Journal Square Transportation Center. This zone continues the existing pattern of mixed land uses and building types while providing for increased height limits on corner lots.

1) Permitted Uses:

- (a) Residential: permitted everywhere except as restricted on the ground floor of buildings utilizing a corner height bonus depicted on *Map 3: Corner Lot Bonus Map*.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices.
- (d) Art galleries.
- (e) Live/Work units and home occupations.
- (f) Restaurants: category one and two.
- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.
- (h) Hotels/Bed and Breakfast.
- (i) Medical Offices.
- (j) Child and Adult Day Care Centers.
- (k) Theatres/Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment. Night clubs and bars are limited to 5000 square feet.
- (l) Houses of worship.
- (m) Museum.
- (n) Schools.
- (o) Community Centers.
- (p) Government uses.
- (q) Any combination of the above.

2) Accessory Uses

- (a) Structured and surface parking and loading.
- (b) Fences and seating walls.

- (c) Landscape features.
- (d) Improved Open Space.
- (e) Signs.
- (f) Rooftop Recreation.
- (g) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
 - (a) Surface parking as a principal use.
 - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
 - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
 - (d) Billboards.
- 4) Lot Size and Dimension Requirements
 - (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivisions must conform to the following minimum standards:
 - (i) Minimum lot area: 7500 square feet.
 - (ii) Minimum lot width: 75 feet.
 - (iii) Minimum Lot Depth: 100 feet.
 - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
 - (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
 - (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)	Maximum Building Height with Bonus "C" (stories)/(feet)	Maximum Building Height with Bonus "B" (stories)/(feet)	Maximum Building Height with Bonus "A" (stories)/(feet)
	0 to 2499	2 / 22'	3 / 34'	5 / 54'	5 / 54'	5 / 54'
25x100	2500 to 4999	2 / 22'	4 / 44'	5 / 54'	5 / 54'	5 / 54'
50x100	5000 to 7499	3 / 32'	5 / 54'	6 / 64'	6 / 64'	8 / 85'
75x100	7500 to 9500	4 / 42'	6 / 64'	6 / 64'	8 / 85'	8 / 85'
95x100	9501 and up	5 / 52'	6 / 64'	6 / 64'	8 / 85'	12 / 130'

Table 6

- (c) Corner Lot Bonus: Corner lots at selected locations are permitted a height bonus to encourage larger buildings at street corners as indicated in *Map 3: Corner Lot Bonus Map*. To qualify for the bonus height, corner lots must have the minimum lot size indicated in Table 6 for each bonus as well as the minimum sidewalk width indicated in *Map 5: Sidewalk Width Map*, or a minimum of 12 feet; whichever is greater. Corner Bonus projects are not required to match adjacent

front yard setbacks in section 6 below, but instead must provide a front yard setback from the existing curb-line at the time of adoption sufficient to meet the minimum sidewalk width as per the *Map 5: Sidewalk Width Map*, or a minimum of 12 feet, whichever is greater. Projects must also comply with the minimum floor-to-ceiling height requirements and required building stepbacks. Buildings of 8 stories and greater must provide ground floor commercial uses in all ground floor areas not utilized for parking, storage or building utilities; and must measure a minimum depth of 30 feet from all street lines. Ground floor residential is only permitted at the rear of a building where a minimum of 5000 square feet of retail is provided. The Corner Lot Bonus is applicable to a maximum lot area of 20,000 square feet.

- (d) Whole block development provision: where an entire block measuring greater than 30,000 square feet (not including any property in Zone 6) is consolidated, bounded only by rights-of-way, the development standards for Zone 3 may be applied provided that:
 - (i) A 20 foot sidewalk is provided around the entire circumference of the block.
 - (ii) Tower stepbacks of 12 feet are accommodated set back from the base facade.
 - (iii) Parking is not permitted to front along any right-of-way at grade level. All parking uses must be screened from view through the use of wrap units. Any non-parking permitted use must occupy the first floor along all rights-of-way to a depth of a minimum of 25 feet. Parking may only be exposed on or above the second story.
 - (iv) Properties in Zone 6 must be excluded from any site plan under this provision.
 - (v) No buildings may be placed in the right-of-way preservation area as indicated on *Map 6: Circulation*. All preservation areas must be designed as publicly accessible plaza.
- (e) Building Stepbacks: To provide light and air to adjacent lots, buildings must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1	none	none	none
2 to 5	none	none	30'
6 to 8	none	5'	30'
9 to 12	10'	10'	30'

Table 7

6) Yard Requirements

(a) Front Yard Requirements:

- (i) Front yard setback shall match the setback of the "Primary Building Façade" (see Article I of the Land Development Ordinance for definition of Primary Building Façade) on either side of the subject parcel, provided that the building setback to be matched shall be closest to the predominant (most frequently occurring) setback on the block front. Where sidewalk widths are less than 8 feet, the front yard setback requirement must be the minimum of 8 feet from front facade at the ground floor to the curb.

- (ii) Up to 30% of a building façade may be set back up to an additional 10 feet to accommodate stoops, outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.
 - (iii) If the adjacent front yard setbacks are greater than 10 feet, and the project site has 60 feet or more of frontage on a right-of-way, then the building may limit the front yard setback requirement to 10 feet.
 - (iv) Where retail is required as indicated in *Map 4: Required Retail Use Map*, the front yard setback shall be from the existing curb-line at the time of adoption sufficient to provide the minimum sidewalk width as depicted in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to curb. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.
- (b) Side Yard Requirements:
- (i) Where the adjacent building is less than four stories, the minimum side yard setback shall be 3 feet to match an adjacent 2 foot yard, 2 feet to match an adjacent 3 foot yard, or the required minimum to meet fire and building code to accommodate windows.
 - (ii) Where a ground floor retail use is mandatory (see *Map 4: Required Retail Use Map*), side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.
 - (iii) Where the adjacent building is greater than 4 stories, or where the adjacent building is built on the lot line, side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.
- (c) Rear Yard Requirements:
- (i) No rear yard is required, however a step back of 30 feet is required above the first floor as per the building step back table above.
 - (ii) For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.
 - (iii) Corner lots shall adhere to the side yard requirements above provided that the wall of any proposed building above the ground floor shall not extend along the adjoining lot line for a depth of greater than 70 feet from the street line.
- E) **ZONE 5: COMMERCIAL MAIN STREET**

The purpose of this zone is to continue the existing pattern of main street type commercial buildings along Newark Avenue while providing for efficient modern new construction and increased density on corner lots.

1) Permitted Uses:

- (a) Residential: permitted everywhere except on the ground floor.
- (b) Retail Sales of Goods and Services/Financial Services.
- (c) Offices.
- (d) Art galleries.
- (e) Live/Work units and home occupations: permitted everywhere except on the ground floor.
- (f) Restaurants: category one and two.
- (g) Structured Parking: provided the design standards of Section IV: D above are met. Structured Parking is not permitted at any street corner location.

- (h) Hotels/Bed and Breakfast.
 - (i) Medical Offices.
 - (j) Child and Adult Day Care Centers.
 - (k) Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment.
 - (l) Museum.
 - (m) Any combination of the above.
- 2) Accessory Uses
- (a) Structured parking and loading.
 - (b) Fences and seating walls.
 - (c) Landscape features.
 - (d) Improved Open Space.
 - (e) Signs.
 - (f) Rooftop Recreation.
 - (g) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
- (a) Surface parking as a principal or accessory use.
 - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive-through uses.
 - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
 - (d) Billboards.
- 4) Lot Size and Dimension Requirements
- (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivisions must conform to the following minimum standards:
 - (i) Minimum lot area: 2500 square feet.
 - (ii) Minimum lot width: 25 feet.
 - (iii) Minimum Lot Depth: 100 feet.
 - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
 - (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot Dimension	Lot Area up to: (square feet)	Minimum Building Height (stories)/(feet)	Maximum Building Height (stories)/(feet)	Maximum Building Height with Bonus "C" (stories)/(feet)	Maximum Building Height with Bonus "B" (stories)/(feet)	Maximum Building Height with Bonus "A" (stories)/(feet)
	0 to 2499	3 / 32'	3 / 34'			
25x100	2500 to 4999	3 / 32'	4 / 44'	5 / 54'	5 / 54'	5 / 54'
50x100	5000 to 7499	3 / 32'	5 / 54'	6 / 64'	6 / 64'	6 / 64'
75x100	7500 to 9500	4 / 42'	6 / 64'	6 / 64'	8 / 85'	8 / 85'

95x100	9501 and up	5 / 52'	6 / 64'	6 / 64'	8 / 85'	12 / 130'
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Table 8

- (c) **Corner Lot Bonus:** Corner lots at selected locations are permitted a height bonus to encourage larger buildings at street corners as indicated in *Map 3: Corner Lot Bonus Map*. To qualify for the additional height, corner lots must have the minimum lot size indicated in Table 8 above for each bonus as well as the minimum sidewalk width indicated in *Map 5: Required Sidewalk Width Map*, or a minimum width of 12 feet; whichever is greater. Corner Bonus projects are not required to match adjacent front yard setbacks in Section 5 below, but instead provide a front yard setback from the existing curb-line at the time of adoption sufficient to meet the minimum sidewalk width, or a minimum width of 12 feet; whichever is greater. Projects must also comply with the minimum floor-to-ceiling height requirements and required building setbacks. The Corner Lot Bonus is applicable to a maximum lot area of 20,000 square feet.
- (d) **Building Setbacks:** To provide light and air to adjacent lots, buildings must provide a "setback" from the property line at the following intervals:

Story Level	Front Setback	Side Setback	Rear Setback
1	none	none	none
2 to 5	none	none	15'
6 to 8	none	5'	20'
9 to 12	5'	10'	25'

Table 9

6) Yard Requirements

(a) Front Yard Requirements:

- The front yard setback shall be sufficient to provide the minimum sidewalk width as indicated in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to the existing curb-line at the time of adoption. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.
- Up to 30% of a building façade may be set back up to an additional 10 feet to accommodate outdoor seating areas or public space, but not for front yard car parking and must be designed to be impractical for such use.

(b) Side Yard Requirements:

- Side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.

(c) Rear Yard Requirements:

- No rear yard is required, however a second floor step back of 30 feet is required as per Table 9 above.
- For through lots, a 50 foot "rear yard" is required at grade or above the first floor, and centered in the middle of the block.

- (iii) Corner lots shall adhere to the side yard requirements above provided that the wall of any proposed building above the ground floor shall not extend along the adjoining lot line a distance greater than 85 feet from the street line for floors 2 through 5, 80 feet for floor 6 through 8 and 75 feet for floors 9 to 12.

F) ZONE 6: PRESERVATION

Situated with the original palisaded town of Bergen to the south, and Newark Avenue and Five Corners to the north; the Journal Square 2060 Redevelopment Plan Area has been the site of architectural endeavors for some 350 years. Although many early buildings have been razed in the development of the area, much remains to give us an idea of the area's development: socially, economically, architecturally, historically and culturally. Many resources remain that are locally significant and that still possess integrity of location, design, setting, materials, workmanship, feeling, and association. These buildings and streetscapes give the area a unique sense of place different not experienced elsewhere in the city.

During prior waves of development in the twentieth century, when the area's landscape changed from that of a suburban small town to the city's Central Business District, important buildings were demolished, altered, or moved. Development, especially in the first half of the twentieth century, was sometimes undertaken without examination and appreciation of past cultural and architectural development. This plan seeks to preserve important resources which help to define the unique character of the Journal Square area. This Zone shall preserve a wide variety of buildings characteristic of the area's varied development encompassing the seventeenth century Newkirk / Summit House, the eighteenth and nineteenth century Apple Tree House, Victorian brick townhouse rows, a Classical Revival Terrace on East Street, late 19th century mixed use developments and large early 20th century apartment buildings as well as churches, theatres and office buildings.

The properties that have been selected for Zone 6: Preservation have, paraphrasing the National Register Criteria for Evaluation:

- A. Been associated with events that have made significant contribution to the broad patterns of our history; or
- B. Are associated with the lives of persons significant in our past; or
- C. Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may be likely to yield, information important in prehistory or history.

To respect the special character that the Journal Square area has acquired and retained over the past three and one half centuries, the buildings included in this Preservation

Zone shall be rehabilitated in accordance with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties* so that future generations can be delighted by the history and architecture of the Journal Square Neighborhood.

- 1) Permitted Uses:
 - (a) All uses at their existing location at the time of adoption of this Plan are permitted.
 - (b) New uses shall be considered by the Planning Board on a case by case basis, guided by adjacent uses only. Because historic buildings in this zone are scattered throughout the Plan Area, and are situated in a variety of land use areas, the permitted uses in this zone must be contextual to the site.
 - (c) Adaptive re-use conversions to residential or live/work units is permitted.
 - 2) Lot Size and Dimension Requirements
 - (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivision is not permitted.
 - 3) Height and Bulk Requirements
 - (a) The existing building height, floor area, established setbacks and the exterior building envelope as of the adoption of this Plan shall constitute the development standards of each building. Any change to the above standards shall constitute a deviation from this plan.
 - (b) Minor alterations in site plan and façade characteristics may be permitted by the Planning Board provided such alterations are consistent with the above standards for this zone. Any changes not consistent with this Plan are cognizable under a deviation application, and will be judged on their merits.
 - 4) Yard and Coverage Requirements
 - (a) building coverage: existing
 - (b) lot coverage: existing
 - (c) front yard: existing
 - (d) side yard: existing
 - (e) rear yard: existing
 - 5) Building Design Requirements
 - (a) All visible façades must retain historic building fabric where practicable. Architectural elements must be fully retained, preserved, restored, or recreated as necessary, based on site, photographic, or period documentation.
 - (b) Any rehabilitation is to be done in compliance with the *Secretary of the Interiors Standards and Guidelines for the Treatment of Historic Properties*
 - (c) All building must comply with all State or national historic register regulations.
 - (d) Parking is not permitted in this zone unless present at the time of adoption of this redevelopment plan.
- G) ZONE 7: DECO
- The purpose of this zone is to retain and preserve the early twentieth century art-deco facades along Bergen Avenue while providing for vertical additions to these historic facades.
- 1) Permitted Uses:
 - (a) Residential: permitted everywhere except on the ground floor.

- (b) Retail Sales of Goods and Services/Financial Services.
 - (c) Offices: permitted everywhere except on the ground floor.
 - (d) Art galleries.
 - (e) Live/Work units and home occupations: permitted everywhere except on the ground floor.
 - (f) Restaurants: category one and two.
 - (g) Hotels/Bed and Breakfast.
 - (h) Medical Offices: permitted everywhere except on the ground floor.
 - (i) Child and Adult Day Care Centers: permitted everywhere except on the ground floor.
 - (j) Night Clubs/Bars: on corner lots, provided no more than 60 decibels is measureable outside the establishment. Night clubs and bars are limited to 3000 square feet.
 - (k) Museum.
 - (l) Any combination of the above.
 - 2) Lot Size and Dimension Requirements
 - (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivision is not permitted.
 - 3) Height Requirements
 - (a) Maximum building height: 8 stories and 85 feet
 - (b) Building Stepbacks: a 15 foot front setback is required for any additions above the existing deco buildings along Bergen Avenue. A 5 foot setback is required for any additions on Newkirk Street.
 - 4) Yard Requirements
 - (a) The maximum permitted building and lot coverage shall be the existing building and lot coverage at the time of adoption of this Plan.
 - 5) Building Design Requirements
 - (a) All visible façades must retain historic building fabric where practicable. Architectural elements must be fully retained, preserved, restored, or recreated as necessary, based on site, photographic, or period documentation.
 - (b) Any facade rehabilitation is to be done in compliance with the *Secretary of the Interiors Standards and Guidelines for the Treatment of Historic Properties*
 - (c) The front façade of any roof top addition must include 75 % glazing which will minimize any impact the addition may have on the historic resource.
 - (d) Parking is not permitted in this zone.
- H) ZONE 8: BERGEN SQUARE
- The purpose of this zone is to demarcate and preserve the footprint, block, and lot lines of the original Dutch settlement of Bergen, established in 1661. This zone provides for mixed use development respecting the established height limits and development context found in Bergen Square.
- 1) Permitted Uses:
 - (a) Residential: permitted everywhere except on the ground floor of buildings utilizing a corner height bonus.
 - (b) Retail Sales of Goods and Services/Financial Services.
 - (c) Offices.
 - (d) Medical Offices

- (e) Art galleries.
 - (f) Live/Work units and home occupations.
 - (g) Restaurants: category one and two.
 - (h) Bed and Breakfast.
 - (i) Child and Adult Day Care Centers.
 - (j) Night Clubs/Bars: restricted to Bergen Ave, provided no more than 60 decibels is measureable outside the establishment.
 - (k) Schools.
 - (l) Community Centers.
 - (m) Government uses.
 - (n) Museum.
 - (o) Any combination of the above.
- 2) Accessory Uses
- (a) Fences and seating walls.
 - (b) Landscape features.
 - (c) Improved Open Space.
 - (d) Signs.
 - (e) Rooftop Recreation.
 - (f) Sidewalk Cafe: where sidewalk width permits.
- 3) Prohibited Uses
- (a) Surface parking as a principal or accessory use.
 - (b) Drive-throughs pertaining to restaurants, banks, pharmacies, and other drive through uses.
 - (c) Gas stations, service stations, auto repair, auto body shops, and other automobile related uses (not including car share programs).
 - (d) Billboards.
- 4) Lot Size and Dimension Requirements
- (a) All existing lots at the time of adoption of this plan are conforming lots.
 - (b) Subdivisions must conform to the following minimum standards:
 - (i) Minimum lot area: 2500 square feet.
 - (ii) Minimum lot width: 25 feet.
 - (iii) Minimum Lot Depth: 100 feet.
 - (iv) Shape Factor Maximum: 30
- 5) Density and Height Requirements
- (a) Density is not regulated by floor area ratio or units per acre in this zone. Instead, a "building envelope" is defined, depending on the size and shape of the site. Minimum room and unit sizes are regulated by building code.
 - (b) Maximum and minimum building height shall be calculated based on the lot size according to the following table provided the required standards in the table are met:

Approximate Lot	Lot Area up to:	Minimum Building	Maximum Building Height
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Dimension	(square feet)	Height (stories)/(feet)	(stories)/(feet)
	0 to 2499	2 / 22'	3 / 34'
25x100	2500 to 4999	2 / 22'	4 / 44'
50x100	5000 and up	3 / 32'	5 / 54'

Table 10

- (c) Building Stepbacks: To provide light and air to adjacent lots, buildings taller than 4 stories must provide a "stepback" from the property line at the following intervals:

Story Level	Front Stepback	Side Stepback	Rear Stepback
1 to 4	none	none	30'
5	10'	none	30'

Table 11

6) Yard Requirements

(a) Front Yard Requirements:

- (i) Front yard setback shall match the setback of the "Primary Building Façade" (see Article I of the Land Development Ordinance for definition of Primary Building Façade) on either side of the subject parcel, provided that the building setback to be matched shall be closest to the predominant (most frequently occurring) setback on the block front.
- (ii) Where retail is required as indicated in *Map 4: Required Retail Use Map*, the front yard setback from the existing curb-line at the time of adoption shall be sufficient to provide the minimum sidewalk width as depicted in *Map 5: Required Sidewalk Width Map*, measured from the ground floor building facade to curb. Example: If the existing sidewalk width is 10 feet, and the required sidewalk is 20 feet, then the front yard setback shall be 10 feet.

(b) Side Yard Requirements:

- (i) Where the adjacent building is less than four stories, the minimum side yard setback shall be 3 feet to match an adjacent 2 foot yard, 2 feet to match an adjacent 3 foot yard, or the required minimum to meet fire and building code to accommodate windows.
- (ii) Where a ground floor retail use is mandatory (see *Map 4: Required Retail Use Map*), side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.
- (iii) Where the adjacent building is greater than 4 stories, or when the adjacent building is built on the lot line, side yards are not permitted within 10 feet of a right-of-way except where required by fire or building code to accommodate adjacent windows.

(c) Rear Yard Requirements:

- (i) A rear yard contextual to the block and lining up with adjacent buildings as determined by the Planning Board is required.

I) ZONE 9: PARKS

- 1) Parks, plazas, and other types of public open space are the only permitted at grade use in this zone. Underground parking facilities are also permitted beneath the required at grade park.

J) ZONE 10: TRANSITION

- 1) All parcels in Zone 10 must be submitted to the City Planning Division as a single site plan application, however construction may be phased.
- 2) A maximum of two buildings may be constructed in Zone 10, with the remainder of the zone developed as open space. One of the two buildings must be on Block 10601 Lot 39 adjacent to the historic Lowes Theatre. The second building must be situated south of the continuation of the Van Reipen Avenue right-of-way and a minimum of 40 feet from the Zone 2 boundary line.
- 3) The as-of-right building height shall be a maximum of 6 stories. This height limitation may be exceeded by constructing the un-built portions of Zone 10 as publicly accessible open space. Surface parking is not permitted. Each square foot of open space made available to the public may be converted to FAR applicable to the two permitted building sites at a ratio of 6:1. For example, 10,000 square feet of land designed as public open space will permit 60,000 additional square feet to be built above the permitted 6 stories. The building site on Block 10601 Lot 39 shall not be restricted in the amount of bonus FAR applied to this site, however any second building shall have a maximum height of 12 stories or 130 feet with applied bonus FAR.
- 4) The site plan for Zone 10 must be in conformity with all design requirements in Chapter VI as well as the required public sidewalk requirements found on *Map 5: Required Sidewalk Width*.

K) ZONE 11: TRANSITION

- 1) All land in Zone 11 must be submitted to the City Planning Board as a single site plan application, however construction may be phased.
- 2) Property in Zone 11 fronting on Summit Avenue, continuing to the east side of the West Street right-of-way and its extension to the south across Block 9604 Lot 11 and Block 10803 Lot 27 may utilize the development regulations of Zone 3 Commercial Center, with the following additional requirements:
 - (a) Summit House Plaza: A 30 foot side yard shall be provided along the southern property line of the Summit House at 510 Summit Avenue, one of the oldest buildings in the State of New Jersey. This yard area must be developed as a pedestrian plaza, and may include seating for restaurant or cafe type uses. Driveway egress only to Summit Avenue is permitted within the required plaza area.
 - (b) A 10 foot yard shall be provided along the eastern property line at the rear of the Summit House.
 - (c) No yard or building setbacks shall be required between any two buildings within Zone 11.
 - (d) Primary driveway entrance and exit must be from West Street.
 - (e) A 24 hour publicly accessible pedestrian easement and paved walkway shall be constructed along the full length of the southern property line of Block 10803 Lot 27 with a minimum width of 20 feet, running along the PATH rail tracks and

connecting from Summit Avenue to the Zone 9 Park (see Map 5: Required Sidewalk Width Map).

- (f) A building height bonus of 17 stories has been granted for this portion of Zone 11 due to the dedication of land for a public park. The maximum building height is therefore set at 42 stories and 440 feet.
- 3) Property in Zone 11 east of the West Street right-of-way and its extension to the south across Block 9604 Lot 11 and Block 10803 Lot 27 may unitize the development regulations of Zone 4 Neighborhood Mixed Use, with the following additional requirements:
 - (a) A publicly accessible pedestrian easement and paved walkway shall be constructed along the full length of the southern property line of Block 10803 Lot 27 with a minimum width of 20 feet, running along the PATH rail tracks and connecting from Summit Avenue to the Zone 9 Park (see Map 5: Required Sidewalk Width Map).
 - (b) Multi-level parking garages within this portion of Zone 11:
 - (i) shall have a height limit of 5 parking levels and 50 feet.
 - (ii) are required to provide a minimum 10 foot rear yard adjacent to Zone 6 and Zone 9.
 - (iii) shall not be required to provide building step backs.

XI) DEFINITIONS

- A) All definitions shall refer to the Jersey City Land Development Ordinance.

XII) MAPS

- 1) Boundary Map
- 2) Zone Districts Map
- 3) Corner Lot Bonus Map
- 4) Required Retail Use Map
- 5) Sidewalk Width Map
- 6) Circulation Map

City Clerk File No. Ord. 14.136

Agenda No. 3.6 1st Reading

Agenda No. _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 14.136

TITLE:

**ORDINANCE AUTHORIZING THE CITY OF JERSEY CITY TO
ENTER INTO A LEASE/PURCHASE AGREEMENT AS LESSEE WITH
JERSEY CITY MUNICIPAL, LLC, AS LESSOR FOR OFFICE SPACE
TO BE CONSTRUCTED AT THE MLK HUB ON A PORTION OF LOT
17, BLOCK 21201 AT THE INTERSECTION OF KEARNEY AVENUE
AND MARTIN LUTHER KING DRIVE**

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:

WHEREAS, the City of Jersey City ("City") has a need for office space for the Department of Health and Human Services, the Department of Public Safety, and the Department of Housing Economic Development and Commerce; and

WHEREAS, Lot 17 in Block 21201 on the City's Tax Map is a 6.95 acre parcel of land located near the intersection of Kearney Avenue and Martin Luther King Drive; and

WHEREAS, subject to the approval of this Lease/Purchase Agreement by the City's governing body, Jersey City Municipal, LLC ("JCM") intends to obtain a subdivision of Lot 17 to establish a 0.556 acre vacant lot, purchase the vacant lot, and construct a three story office building of approximately 60,000 square feet ("Property") which the City will lease; and

WHEREAS, the basic term of the Lease/Purchase Agreement is twenty-five (25) years with base rent payments commencing on the date of substantial completion of the building, but not later than October 1, 2016; and

WHEREAS, JCM offers to lease 60,000 square feet of office space to the City at \$21.40 per square foot for a monthly basic rent of \$107,000.00 or \$1,284,000.00 annually for the first five years of the lease term; and

WHEREAS, the basic rent for years six (6) through twenty-five (25) of the lease term shall be accordance with Exhibit "B" of the Lease Agreement attached hereto; and

WHEREAS, the City shall have the option to purchase the Property for \$1.00 at the end of the lease term; and

WHEREAS JCM will construct the "Base Building Work" described in Exhibit "C" of the Lease/Purchase Agreement attached hereto; and

WHEREAS, JCM will perform on the City's behalf the initial fit-up work in or to the building and shall provide the City with an allowance of \$50.00 per square foot or \$3,000,000.00 for 60,000 square feet for the initial fit-up work; and

WHEREAS, the Lease/Purchase Agreement is a bondable triple net lease and City will be responsible for maintenance and repair costs for the building and the costs for insurance, real estate taxes and utilities; and

WHEREAS, N.J.S.A. 40A:12-5 provides that a municipality may by ordinance acquire property by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement; and

WHEREAS, it is the intent of the City and the JCM to treat the Lease/Purchase Agreement as an installment purchase agreement pursuant to N.J.S.A. 40A:12-5(b) such that the obligation of the City to make payments under the Lease/Purchase Agreement shall be valid and binding for the term thereof and shall not be otherwise subject to annual appropriation.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

1. Subject to such modifications as may be deemed necessary or appropriate by Corporation Counsel, the Mayor or Business Administrator is authorized to execute a Lease/Purchase Agreement in substantially the form attached with Jersey City Municipal, LLC for an office building to be constructed at the MLK HUB, on a 0.556 acre parcel of vacant land that is currently part of the 6.95 acres of land known as Lot 17 in Block 21201 on the City's Tax Map;
 2. The authorization for this Lease/Purchase Agreement is subject to the construction by Jersey City Municipal, LLC, at its own expense, of the improvements described in paragraph C1 of Exhibit "C" of Lease Agreement attached hereto;
 3. The Lease/Purchase Agreement shall require that the Landlord will obtain a performance bond and under no circumstances shall such performance bond require any payment from the City's insurance policies for completion of the work described on Exhibit C;
 4. The basic term of the Lease/Purchase Agreement is twenty-five (25) years commencing on the date that is the earlier of (i) substantial completion of the improvements or (ii) October 1, 2016;
 5. The rent, not including the expenses that are the responsibility of the City, for years one through five of the lease term shall be \$21.40 per square foot for a monthly basic rent of \$107,000 or \$1,284,000 annually. Subsequent years' rent shall be as set forth in Schedule "B" of the attached Lease Agreement;
 6. Pursuant to N.J.S.A. 40A:12-5(b), the obligation of the City to make payments under the Lease/Purchase Agreement is valid and binding for the term thereof and shall not otherwise be subject to annual appropriation; and
 7. The Mayor and Business Administrator are authorized to take all actions to carry out the purposes and intent of the foregoing resolutions.
- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new; therefore, underlining has been omitted.
For purposes of advertising only, new matter is indicated by **bold face**
and repealed matter by *italic*.

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required ☐
Not Required ☐

LEASE/PURCHASE AGREEMENT

between

JERSEY CITY MUNICIPAL, LLC,

as Landlord

and

CITY OF JERSEY CITY,

as Tenant

Dated _____, 2014

BOND LEASE

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Exhibit "A" - The Leased Premises

Exhibit "B" - Basic Rent

Exhibit "C" - Definition of Base Building Work and Fit-Up Work

This **LEASE/PURCHASE AGREEMENT** (this "**Lease**") is made as of this ____ day of _____, 2014, by and between JERSEY CITY MUNICIPAL, LLC, a _____ having an office at _____, Attention: _____ ("**Landlord**"), and the CITY OF JERSEY CITY, a _____ having its principal office at _____, Attention: _____ ("**Tenant**").

In consideration of the rents and provisions herein stipulated to be paid and performed, Landlord and Tenant hereby covenant and agree as follows:

1. **CERTAIN DEFINITIONS.**

- (a) "**Action**" shall mean Action as defined in Paragraph 19(e).
- (b) "**Additional Rent**" shall mean all sums required to be paid by Tenant under this Lease other than Basic Rent, which sums shall constitute rental hereunder.
- (c) "**Adjoining Property**" shall mean all sidewalks, curbs, gores and vault spaces adjoining any of the Leased Premises.
- (d) "**Alteration**" or "**Alterations**" shall mean any or all changes, additions, improvements, reconstructions or replacements of any of the Improvements, both interior or exterior, and ordinary and extraordinary.
- (e) "**Base Building Work**" is defined in Exhibit C.
- (f) "**Basic Rent**" shall mean Basic Rent as defined in Paragraph 4.
- (g) "**Basic Rent Commencement Date**" shall mean the earlier of the Date of Substantial Completion and October 1, 2016.
- (h) "**Basic Rent Payment Dates**" shall mean the Basic Rent Payment Dates as defined in Paragraph 4.
- (i) "**Basic Term**" means the period from the Basic Rent Commencement

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Date to the Expiration Date.

(j) **"Code"** shall mean Code as defined in Paragraph 19(d).

(k) **"Commencement Date"** shall mean the date on which Landlord shall have acquired title to the Leased Premises subject to Permitted Encumbrances, it being understood that a series of events must take place before such acquisition can occur (e.g., and not by way of limitation, the subdivision of the land from a larger parcel of real property must be approved and implemented).

(l) **"Condemnation"** shall mean a Taking and/or a Requisition.

(m) **"Date of Substantial Completion"** is defined in Exhibit C.

(n) **"Default Rate"** shall mean the default rate of interest under the first Mortgage or if there is no Mortgage an annual rate of interest equal to the Prime Rate plus five (5) percentage points, but in no event greater than the maximum interest rate permitted by Legal Requirements,

(o) **"Documents of Record"** shall mean each document recorded in the local real estate records of the County where the Leased Premises are located and applicable to the Leased Premises.

(p) **"Environmental Claim"** shall mean Environmental Claim as defined in Paragraph 26(a).

(q) **"Environmental Laws"** shall mean Environmental Laws as defined in Paragraph 26(a).

(r) **"Event of Default"** shall mean an Event of Default as defined in Paragraph 19.

(s) **"Expiration Date"** shall mean an Expiration Date as defined in

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Paragraph 3.

- (t) **"Fit-Up Work"** shall mean the Fit-Up Work as defined in Section 49.
- (u) **"Guaranties"** shall mean guaranties as defined in Paragraph 6(c).
- (v) **"Improvements"** shall mean the Improvements as defined in Paragraph 2
- (w) **"Indemnified Party"** shall mean Indemnified Party as defined in Paragraph 26(E).
- (x) **"Insurance Requirement" or "Insurance Requirements"** shall mean, as the case may be, any one or more of the terms of each insurance policy required to be carried by Tenant under this Lease and the requirements of the issuer of such policy, and whenever Tenant shall be engaged in making any Alteration or Alterations, repairs or construction work of any kind (collectively, **"Work"**), the term "Insurance Requirement" or "Insurance Requirements" shall be deemed to include a requirement that Tenant obtain or cause its contractor to obtain completed value builder's risk insurance when the estimated cost of the Work in any one instance exceeds the sum of \$150,000 and that Tenant or its contractor shall obtain worker's compensation insurance or other adequate insurance coverage covering all persons employed in connection with the Work, whether by Tenant, its contractors or subcontractors and with respect to whom death or bodily injury claims could be asserted against Landlord.
- (y) **"Interim Term"** shall mean the period from the Commencement Date to the Basic Rent Commencement Date.
- (z) **"Land"** shall mean the Land as defined in Paragraph 2.
- (aa) **"Leased Premises"** shall mean the Leased Premises as defined in Paragraph 2.
- (bb) **"Legal Requirement" or "Legal Requirements"** shall mean, as the case

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may be, any one or more of all present and future laws, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations and requirements, even if unforeseen or extraordinary, of every duly constituted governmental authority or agency (but excluding those which by their terms are not applicable to and do not impose any obligation on Tenant, Landlord or the Leased Premises) and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Tenant, to Landlord or to any of the Leased Premises, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of any of the Leased Premises, even if compliance therewith (i) necessitates structural changes or improvements (including changes required to comply with the "Americans with Disabilities Act") or results in interference with the use or enjoyment of any of the Leased Premises or (ii) requires Tenant to carry insurance other than as required by the provisions of this Lease.

(cc) **"Lender"** shall mean the entity or entities identified to Tenant as such in writing, which makes a Loan to Landlord, secured in whole or in part by a Mortgage and evidenced by a Note or Notes or which is or are the holder of a Mortgage and Note(s) as a result of an assignment of a whole or partial interest therein, and when a Mortgage secures multiple Notes held by one or more noteholders, the trustee acting on behalf of such holders, provided such trustee has been identified as such in writing to Tenant.

(dd) **"Loan"** shall mean a loan made by a Lender to Landlord secured in whole or in part by a Mortgage and evidenced by a Note or Notes.

(ee) **"Losses"** shall mean Losses as defined in Paragraph 34.

(ff) **"Materials of Environmental Concern"** shall mean Materials of Environmental Concern as defined in Paragraph 26(a).

(gg) **"Mortgage"** shall mean a mortgage, deed of trust, deed to secure debt or similar security instrument from Landlord to Lender that encumbers the Leased Premises.

(hh) **"Net Award"** shall mean the entire award payable to Landlord by reason of a Condemnation, less any actual and reasonable expenses incurred by Landlord in collecting
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such award.

(ii) **"Net Proceeds"** shall mean the entire proceeds of any property casualty insurance required under Paragraph 13(a), less any actual and reasonable expenses incurred by Landlord or Tenant in collecting such proceeds.

(jj) **"Net Surplus Award"** shall mean the Net Surplus Award as defined in Paragraph 12(b).

(kk) **"Notice"** or **"Notices"** shall mean Notice or Notices as defined in Paragraph 21.

(ll) **"Note"** or **"Notes"** shall mean a promissory (or senior secured) note or notes hereafter executed from Landlord to Lender, which Note or Notes will be secured in whole or in part by a Mortgage and an assignment of leases and rents (which assignment of leases and rents may be included within the Mortgage rather than in a separate document).

(mm) **"Permitted Encumbrances"** shall mean those covenants, restrictions, reservations, liens, conditions, encroachments, easements and other matters of title that affect the Leased Premises as of Landlord's acquisition thereof, and are recorded in the land records of the county in which the Leased Premises are located (any unrecorded documents that are referenced in a recorded document), but excepting any such matters arising from the acts of Landlord (such as liens arising as a result of judgments against Landlord).

(nn) **"Person"** shall mean any and all person(s) and/or entity(ies), including, but not limited to, Landlord.

(oo) **"Prime Rate"** shall mean the rate of interest announced publicly by Citibank, N.A. or its successor, from time to time, as Citibank N.A.'s or such successor's base rate, or if there be no such base rate, then the rate of interest charged by Citibank, N.A. or such successor to its most creditworthy customers on commercial loans having a ninety (90) day duration.

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(pp) **"Regulated Activity"** shall mean the Regulated Activity as defined in Paragraph 26(a).

(qq) **"Remedial Work"** shall mean the Remedial Work as defined in Paragraph 26(a).

(rr) **"Rent"** shall mean Basic Rent and Additional Rent.

(ss) **"Requisition"** shall mean any temporary condemnation or confiscation of the use or occupancy of any of the Leased Premises by any governmental authority, civil or military, whether pursuant to an agreement with such governmental authority in settlement of or under threat of any such requisition or confiscation, or otherwise.

(tt) **"Restoration"** shall mean the restoration of the Leased Premises after any Taking or damage by casualty as nearly as possible to their value, condition and character existing immediately prior to such Taking or damage and shall include the demolition, planning, and permitting periods required to complete such restoration.

(uu) **"Restoration Award"** shall mean the Restoration Award as defined in Paragraph 12(b).

(vv) **"Restoration Fund"** shall mean the Restoration Fund as defined in Paragraph 15.

(ww) **"Restoration Notice"** shall mean the Restoration Notice as defined in Paragraph 15(g).

(xx) **"S&P"** shall mean Standard & Poor's, a division of The McGraw-Hill Companies, Inc, its successors and/or assigns.

(yy) **"State"** shall mean the State of New Jersey.

(zz) **"Taking"** shall mean any transfer of title to any of the Leased Premises in

or by condemnation or other eminent domain proceedings pursuant to any law, general or special, or by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceedings.

(aaa) **"Taxes"** shall mean taxes of every kind and nature (including real, *ad valorem* and personal property, income, franchise, withholding, profits and gross receipts taxes); all charges and/or taxes for any easement or agreement maintained for the benefit of any of the Leased Premises; all general and special assessments, levies, permits, inspection and license fees; all utility charges, all ground rents, and all other public charges and/or taxes whether of a like or different nature, even if unforeseen or extraordinary, imposed upon or assessed, prior to or during the Term, against Landlord, Tenant or any of the Leased Premises as a result of or arising in respect of the occupancy, leasing, use, maintenance, operation, management, repair or possession thereof, or any activity conducted on the Leased Premises, or the Basic Rent or Additional Rent, including without limitation, any gross income tax, sales tax, use tax, occupancy tax or excise tax levied by any governmental body on or with respect to such Basic Rent or Additional Rent.

(bbb) **"Tenant's Allowance"** is defined in Paragraph 49.

(ccc) **"Tenant Insurance Payment"** shall mean the Tenant Insurance Payment as defined in Paragraph 14(c).

(ddd) **"Term"** shall mean the Interim Term and the Basic Term of this Lease, as extended pursuant to any extension option that has become effective.

(eee) **"Trade Fixtures"** shall mean all items of personal property which (a) are attached to the Improvements (b) owned by Tenant and used in the operation of the business conducted on the Leased Premises and (c) can be removed without material damage to the Improvements.

(fff) **"Trustee"** shall mean the Trustee as defined in Paragraph 14(a).

2. **DEMISE OF PREMISES.** Landlord hereby demises and lets to Tenant and Tenant hereby takes and leases from Landlord for the Term and upon the provisions hereinafter specified the following described property (collectively, the "**Leased Premises**"): (i) the premises described in **Exhibit "A"** attached hereto and made a part hereof together with the easements, rights and appurtenances thereunto belonging or appertaining (collectively, the "**Land**"); (ii) the buildings, structures, fixtures and other improvements constructed and to be constructed on the Land (collectively, the "**Improvements**"), and (iii) the equipment, together with all additions and accessions thereto, substitutions therefor and replacements thereof permitted by this Lease.

3. **TERM.** Tenant shall have and hold the Leased Premises for an initial term commencing on the Commencement Date and ending on the Basic Rent Commencement Date (the "**Interim Term**") and a Basic Term of 25 years (300 months) commencing on the Basic Rent Commencement Date and ending on the last day of the 300th month thereafter (the "**Expiration Date**").

4. **RENT.** (a) Tenant shall pay to Landlord or Lender, if so directed by Landlord or Lender, as annual rent for the Leased Premises during the Basic Term ("**Basic Rent**"), the sums set forth on **Exhibit B**, which rent shall be paid in equal monthly installments in advance commencing on the Basic Rent Commencement Date and continuing on the same day of each month thereafter during the Basic Term (the said days being called the "**Basic Rent Payment Dates**"), and shall pay the same at Landlord's address set forth below, or at such other place or to such other Persons (not exceeding two (2) in number) and in such proportions as Landlord from time to time may designate to Tenant in writing, in funds which at the time of such payment shall be legal tender for the payment of public or private debts in the United States of America and if required by Landlord or Lender by wire transfer in immediately available federal funds to such account in such bank as Landlord or Lender, as the case may be, shall designate from time to time. Whenever any payment hereunder shall be stated to be due on a day which is not a business day, such payment shall be made on the first business day preceding such scheduled due date. Landlord's financing (the "**Financing**") contemplates that Landlord's interest rate (the "**Interest Rate**") related to its Financing will be 4.6% (the "**Interest Rate**"). Notwithstanding any other

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provision herein, to the extent the Interest Rate rises above 4.6 percent, then the annual rental amount as shown on Exhibit B for years 6-25 shall be increased by an amount equal to the amount of the increase in the annual debt service payable by the Landlord. The rental amount per square foot and the monthly payments shown on Exhibit B shall be adjusted accordingly.

(b) If any installment of Basic Rent is not paid on the date due, Tenant shall pay Landlord interest on such overdue payment at the Default Rate, accruing from the due date of such payment until the same is paid. If any installment of Basic Rent is not paid for a period of three (3) days after notice of default thereof by Landlord or Lender, Tenant shall pay Landlord a late charge in an amount equal to the lesser of the late charge, if any, under the first Mortgage (and if there is no Mortgage five (5%) percent of the unpaid installment of Basic Rent) or the highest late charge permitted by Legal Requirements.

(c) Tenant shall pay and discharge before the imposition of any fine, lien, interest or penalty may be added thereto for late payment thereof, as Additional Rent, all other amounts and obligations which Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added by the party to whom such payment is due for nonpayment or late payment thereof. In the event of any failure by Tenant to pay or discharge any of the foregoing, Landlord and Lender shall have all rights, powers and remedies provided herein, by law or otherwise, in the event of nonpayment of Basic Rent. Any Additional Rent payable to Landlord shall be paid, within fifteen (15) days after demand therefor, to the party to whom Basic Rent is paid.

(d) Anything set forth in this Lease or in any other document or under applicable Legal Requirements or elsewhere to the contrary notwithstanding, (i) the obligation of Tenant to pay Basic Rent shall commence on the Basic Rent Commencement Date and Tenant shall be obligated to commence and continue to pay Basic Rent and Additional Rent regardless of (A) Landlord's, Landlord's affiliate's or any other party's failure to commence or complete the construction of the Improvements or punchlist items or other obligations pertaining thereto, (B) whether or not Tenant has accepted possession of the Improvements or any space therein,

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(C) the availability of funds sufficient to complete the construction, punchlist items and other obligations pertaining thereto, and/or (D) whether or not funds for such purposes have been appropriated and (ii) Tenant shall have no right to abate or reduce rents or to terminate or cancel this Lease or declare a constructive eviction or exercise any other remedies under this Lease or under applicable Legal Requirements as a result of the events described in this Section 4.

(e) If the Basic Rent Commencement Date is other than the first day of the month, Tenant shall pay the prorated share of Basic Rent and Additional Rent. The parties shall execute a Certificate of Commencement of this Lease in recordable form confirming the Basic Rent Commencement Date.

5. **BOND LEASE.** (a) It is the intention of the parties hereto that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, and that Basic Rent, Additional Rent and all other sums payable by Tenant hereunder shall continue to be payable in all events, and not otherwise subject to annual appropriation, and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. This is a bond lease and Basic Rent, Additional Rent and all other sums payable hereunder by Tenant shall be paid without notice or demand, and without setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense, except as otherwise specifically set forth herein. This Lease shall not terminate and Tenant shall not have any right to terminate this Lease during the Term. Tenant agrees that it shall not take any action to terminate, rescind or avoid this Lease notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting Landlord, (ii) the exercise of any remedy, including foreclosure, under the Mortgage, (iii) any action with respect to this Lease (including the disaffirmance hereof) which may be taken by Landlord under the Federal Bankruptcy Code or by any trustee, receiver or liquidator of Landlord or by any court under the Federal Bankruptcy Code or otherwise, (iv) the Taking of the Leased Premises or any portion thereof, (v) the prohibition or restriction of Tenant's use of the Leased Premises under any Legal Requirement or otherwise, (vi) the destruction of or damage or casualty to the Leased Premises or

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any portion thereof, (vii) the eviction of Tenant from possession of the Leased Premises, by paramount title, constructive eviction or otherwise, or (viii) default by Landlord hereunder or under any other agreement between Landlord and/or any of its affiliates and Tenant. Tenant waives all rights which are not expressly stated herein but which may now or hereafter otherwise be conferred by law to quit, terminate or surrender this Lease or any of the Leased Premises; to any setoff, counterclaim, recoupment, abatement, suspension, deferment, diminution, deduction, reduction or defense of or to Basic Rent, Additional Rent or any other sums payable under this Lease, and for any statutory lien or offset right against Landlord or its property, each except as otherwise expressly provided herein.

(b) All costs and expenses (other than depreciation, interest on and amortization of debt incurred by Landlord, and costs incurred by Landlord in financing or refinancing the Leased Premises) and other obligations of every kind and nature whatsoever relating to the Leased Premises and the appurtenances thereto and the use and occupancy thereof which may arise or become due and payable prior to the expiration or earlier termination of the Term (whether or not the same shall become payable during the Term or thereafter) shall be paid and performed by Tenant.

(c) Tenant shall pay directly to the proper authorities charged with the collection thereof all charges for water, sewer, gas, oil, electricity, telephone and other utilities or services used or consumed on the Leased Premises during the Term, whether designated as a charge, tax, assessment, fee or otherwise, including, without limitation, water and sewer use charges, impact fees and taxes, if any, all such charges, fees and taxes to be paid as the same from time to time become due. It is understood and agreed that Tenant shall be responsible, as part of The Fit-Up Work, for distribution of utilities throughout the Improvements and for making arrangements with the utility companies for commencement of services. Landlord shall be under no obligation to furnish any utilities to the Leased Premises and shall not be liable for any interruption or failure in the supply of any such utilities to the Leased Premises.

6. **TITLE AND CONDITION.** (a) The Leased Premises are demised and let subject to the Permitted Encumbrances and all Legal Requirements and Insurance Requirements, including any existing violation of any thereof, without representation or warranty by Landlord; it being understood and agreed, however, that the recital of the Permitted Encumbrances herein shall not be construed as a revival of any thereof which for any reason may have expired.

(b) Without limiting the effect of Landlord's covenant set forth in Paragraph 8(c), the Landlord makes no, and expressly hereby denies any, representations or warranties regarding the condition or suitability of, or title to, the Leased Premises. Tenant agrees that, with respect to matters affecting title, it takes the Leased Premises "AS IS," without any such representation or warranty.

(c) Landlord hereby conditionally assigns, without recourse or warranty whatsoever, to Tenant, all warranties, guaranties and indemnities, express or implied, and similar rights which Landlord may have against any manufacturer, seller, engineer, contractor or builder in respect of any of the Leased Premises, including, but not limited to, any rights and remedies existing under contract or pursuant to the Uniform Commercial Code (collectively, the "guaranties"). Such assignment shall remain in effect so long as no Event of Default exists hereunder or until the expiration or sooner termination of this Lease. Landlord shall also retain the right to enforce any guaranties so assigned in the name of Tenant upon the occurrence of an Event of Default. Landlord hereby agrees to execute and deliver at Tenant's sole cost and expense such further documents, including powers of attorney, as Tenant may reasonably request (and which in the good faith judgment of Landlord, do not adversely affect a substantial interest of Landlord), in order that Tenant may have the full benefit of the assignment effected or intended to be effected by this Paragraph 6. Upon the occurrence of an Event of Default or the expiration or termination of this Lease, the guaranties shall automatically revert to Landlord. The foregoing provision of reversion shall be self-operative and no further instrument of reassignment shall be required. In confirmation of such reassignment, Tenant shall execute and deliver promptly any certificate or other instrument which Landlord may request at Tenant's sole cost and expense. Additionally, upon the occurrence of an Event of Default or the expiration or

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sooner termination of this Lease, Tenant shall, at Landlord's request and at Tenant's sole cost and expense, assign to Landlord all claims against third parties for damages to the Leased Premises to the extent that such damages are Tenant's responsibility to repair pursuant to the provisions of this Lease, and all warranties, guaranties and indemnities, express or implied, and similar rights which Tenant may have against any manufacturer, seller, engineer, contractor or builder in respect of any of the Leased Premises, including, but not limited to, any rights and remedies existing under contract or pursuant to the Uniform Commercial Code. Any monies collected by Tenant under any of the guaranties or under the prior sentence after the occurrence of and during the continuation of an Event of Default shall be held in trust by Tenant and promptly paid over to Landlord.

7. **TAXES; INSURANCE AND LEGAL REQUIREMENTS.** (a) Tenant shall, subject to the provisions of Paragraph 18 hereof relating to contests, no later than fifteen (15) days before interest or penalties are due thereon, pay and discharge all Taxes and provide Landlord with a paid receipt therefor. Nothing herein shall obligate Tenant to pay, and the term "Taxes" shall exclude, federal, state or local (i) franchise, capital stock or similar taxes, if any, of Landlord, (ii) income, excess profits or other taxes, if any, of Landlord, determined on the basis of or measured by its net income, or (iii) any estate, inheritance, succession, gift, capital levy or similar taxes unless the taxes referred to in clauses (i) and (ii) above are in lieu of or a substitute for any other tax or assessment upon or with respect to any of the Leased Premises which, if such other tax or assessment were in effect at the commencement of the Term, would be payable by Tenant. In the event that any assessment against any of the Leased Premises may be paid in installments, Tenant shall have the option to pay such assessment in installments; and in such event, Tenant shall be liable only for those installments (and all resulting interest thereon) which become due and payable in respect of the Term. Tenant shall prepare and file all tax reports required by governmental authorities which relate to the Taxes. If Tenant is not permitted to file any tax reports or pay any Taxes directly to the applicable governmental authorities, Tenant shall remit such Taxes, no later than fifteen (15) business days prior to the date when due, to Landlord and, at Landlord's request, shall cooperate with Landlord in the preparation of such tax reports. Landlord, at Tenant's expense, shall prepare and file such tax reports and pay such Taxes to the {00239109.DOCX}

applicable governmental authorities until Tenant has obtained permission to do so. Promptly after the date hereof, Tenant shall endeavor to obtain permission to file all tax reports and pay Taxes directly to the applicable governmental authorities. Tenant shall deliver to Landlord and Lender, upon receipt, copies of all settlements and notices pertaining to the Taxes which may be issued by any governmental authority and, prior to delinquency, receipts for payments of all Taxes made during each calendar year of the Term.

(b) Tenant shall promptly comply with and conform to all Legal Requirements, all Documents of Record and all Insurance Requirements, subject to the provisions of Paragraph 18 hereof.

8. USE. (a) Tenant may use the Leased Premises for any lawful purpose other than any use that will (i) have an adverse effect on the value of the Leased Premises, (ii) increase the likelihood that Tenant, Landlord or Lender would incur liability under any provisions of Environmental Laws, as defined in Paragraph 26 of this Lease, or (iii) result or give rise to any environmental deterioration or degradation of the Leased Premises. In no event shall the Leased Premises be used as a dry cleaners or for any purpose which shall violate any of the provisions of any Permitted Encumbrances applicable to the Leased Premises either specifically or through broader application to any center or industrial park of which the Leased Premises may be a part. Tenant agrees that with respect to any such Permitted Encumbrances, Tenant shall observe, perform and comply with and carry out the provisions thereof required therein to be observed and performed by Landlord. If under applicable zoning laws, the use of all or any portion of the Leased Premises is or shall become a non-conforming right, Tenant shall not cause or permit such non-conforming right to be discontinued or abandoned.

(b) Subject to Tenant's rights of contest under Paragraph 18 hereof, Tenant shall not permit any unlawful occupation, business or trade to be conducted on any of the Leased Premises or any use to be made thereof contrary to applicable Legal Requirements or Insurance Requirements. Subject to Tenant's rights of contest under Paragraph 18 hereof, Tenant shall not use, occupy or permit any of the Leased Premises to be used or occupied, nor do or permit

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anything to be done in or on any of the Leased Premises, in a manner which would (i) violate any certificate of occupancy or equivalent certificate affecting any of the Leased Premises, (ii) make void or voidable any insurance which Tenant is required hereunder to maintain then in force with respect to any of the Leased Premises, (iii) affect in any manner the ability of Tenant to obtain any insurance which Tenant is required to furnish hereunder, (iv) cause any injury or damage to any of the Improvements unless pursuant to Alterations permitted under Paragraph 11 hereof, or (v) constitute a public or private nuisance or waste.

(c) Subject to all of the provisions of this Lease, so long as no Event of Default exists hereunder, Landlord covenants that neither it nor any party claiming by, through or under it, shall do any act to disturb the peaceful and quiet occupation and enjoyment of the Leased Premises by Tenant. Landlord may enter upon and examine any of the Leased Premises at reasonable times after reasonable notice and during business hours and exercise any rights and privileges granted to Landlord under the provisions of this Lease. During an Event of Default or in an emergency, Landlord's access to the Leased Premises shall not be restricted as provided in the immediately preceding sentence.

9. **MAINTENANCE AND REPAIR.** (a) Tenant shall at all times, including, but not limited to, any Requisition period, put, keep and maintain the Leased Premises, including, without limitation, the roof, landscaping, parking areas, walls (interior and exterior), footings, foundations and structural components of the Leased Premises, and the Adjoining Property, in good repair and appearance, and shall promptly make all repairs and replacements (substantially equivalent in quality and workmanship to the original work) of every kind and nature, whether foreseen or unforeseen, which may be required to be made upon or in connection with any of the Leased Premises in order to keep and maintain the Leased Premises in good condition and order of repair, except for ordinary wear and tear. Tenant shall do or cause others to do all shoring of the Leased Premises or Adjoining Property or of foundations and walls of the Improvements and every other act necessary or appropriate for preservation and safety thereof, by reason of or in connection with any excavation or other building operation upon any of the Leased Premises or Adjoining Property, whether or not Landlord shall, by reason of any Legal Requirements or Insurance

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Requirements, be required to take such action or be liable for failure to do so. Landlord shall not be required to make any repair, whether foreseen or unforeseen, or to maintain any of the Leased Premises or Adjoining Property in any way, and Tenant hereby expressly waives the right to make repairs at the expense of the Landlord, which right may otherwise be provided for in any law now or hereafter in effect. Tenant shall, in all events, make all repairs for which it is responsible hereunder promptly, and all repairs shall be in a good, proper and workmanlike manner.

(b) If Tenant shall be in default under any of the provisions of this Paragraph 9, Landlord or Lender may, after thirty (30) days Notice to Tenant and failure of Tenant to commence to cure during said period or to diligently prosecute such cure to completion once begun, but immediately upon notice in the event of an emergency (that is, imminent danger of injury to persons or property), do whatever is necessary to cure such default as may be reasonable under the circumstances for the account of and at the expense of Tenant. In the event of an emergency, before Landlord or Lender may avail itself of its rights under this Paragraph 9(b), Landlord or Lender, as the case may be, shall send Notice to Tenant of the situation by phone, electronic mail or other available communication. All actual and reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred by Landlord or Lender, together with interest thereon at the Default Rate from the date of payment or incurring the expense, shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord or Lender (as applicable) on demand. Landlord and Tenant agree that, in the event of an emergency, expenditures which might otherwise be unreasonable (such as overtime) may nevertheless be reasonable under the circumstances.

(c) Tenant shall from time to time replace with other similar operational equipment or parts any of the mechanical systems or other equipment included in the Improvements which shall have become worn out, obsolete or unusable for the purpose for which it is intended, been taken by a Condemnation as provided in Paragraph 12, or been lost, stolen, damaged or destroyed as provided in Paragraph 14. Tenant shall repair at its sole cost and expense all damage to the Leased Premises caused by the removal of equipment or any other

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personal property of Tenant at any time, including upon expiration or earlier termination of this Lease.

10. **LIENS.** Tenant shall not, directly or indirectly, create or permit to be created or to remain, and shall discharge, within fifteen (15) days after the lien is filed, any lien on any of the Leased Premises, on the Basic Rent, Additional Rent or on any other sums payable by Tenant under this Lease, other than the Mortgage (and any assignment of leases, rents or profits collateral thereto), the Permitted Encumbrances and any mortgage, lien, encumbrance or other charge created by or resulting from any act or omission by Landlord or those claiming by, through or under Landlord except Tenant. Tenant shall provide Landlord with a copy of any notice of lien within five (5) business days after Tenant's receipt of such notice of lien.

11. **ALTERATIONS.** Tenant may make any Alterations without the prior written consent of the Landlord provided such Alterations comply with all of the following provisions: (a) the fair market value of the Leased Premises shall not be lessened as a result of any such Alteration, nor shall the structural integrity of the Leased Premises be impaired; (b) the Alteration and any Alteration theretofore made or thereafter to be made shall not in the aggregate reduce the gross floor area of the Improvements, nor shall any such Alteration materially adversely affect access to the Improvements; (c) the Alteration shall be performed in a good and workmanlike manner, and shall be expeditiously completed in compliance with all Legal Requirements, (d) all work done in connection with any such Alteration shall comply with all Insurance Requirements, (e) Tenant shall promptly pay all costs and expenses of any such Alteration, and shall discharge all liens filed against the Leased Premises arising out of the same, (f) Tenant shall procure and pay for all permits and licenses required in connection with any such Alteration, (g) all such Alterations shall be the property of Landlord and shall be subject to this Lease, (h) any Alteration the estimated cost of which exceeds \$150,000 shall be made under the supervision of a licensed architect or engineer in accordance with detailed plans and specifications which shall be submitted to Landlord and Lender at least thirty (30) days prior to the commencement of the Alterations, and shall be secured by cash or unconditional letter of credit (in such form and issued by an institutional lender reasonably acceptable to Landlord and lender) equal to 125% of the

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estimated cost of the Alteration. Upon completion of any Alteration in excess of \$150,000, Tenant will provide as-built plans and specifications or record drawings to Landlord and Lender.

12. **CONDEMNATION.** (a) Immediately upon obtaining knowledge of the institution of any proceeding for Condemnation, Tenant shall notify Landlord and Lender thereof and Landlord and Lender shall be entitled to participate in any Condemnation proceeding at Tenant's expense. Landlord and Lender, immediately upon obtaining knowledge of the institution of any proceeding for Condemnation, shall notify Tenant thereof and Tenant shall have the right to participate in such proceedings at its own expense. Subject to the provisions of this Paragraph 12 and Paragraph 15, Tenant hereby irrevocably assigns to Lender or to Landlord, in that order, any award or payment in respect of any Condemnation, except that Tenant does not assign to Lender or to Landlord any award or payment on account of Tenant's Trade Fixtures or other tangible personal property, moving expenses and similar claims, if available, to the extent Tenant shall have a right to make a separate claim therefor against the condemnor; it being agreed, however, that Tenant shall in no event be entitled to any payment that reduces the award or payment to which either Lender or Landlord is or would be entitled for the Condemnation.

(b) Subject to the requirements of Paragraph 15, the Net Award of such Condemnation shall be retained by Lender, if any, or, if no Lender, then Landlord and, promptly after such Condemnation, Tenant shall commence and diligently continue to perform the Restoration whether or not the Net Award shall be sufficient to do so. Upon the payment to Lender or Landlord of the Net Award of a Taking which falls within the provisions of this subparagraph (b), Landlord and Lender shall, to the extent received, make that portion of the Net Award equal to the cost of Restoration (the "**Restoration Award**") available to Tenant for Restoration, in accordance with the provisions of Paragraph 15 (as if Landlord or Lender were acting as Trustee and the Restoration Award were the Restoration Fund) and the balance remaining (the "**Net Surplus Award**") shall be the property of Lender or Landlord, in that order, and shall be applied, at Lender's or Landlord's option, in that order, as follows: Tenant shall receive that portion of the Net Surplus Award equal to the present value (calculated at a discount rate of 12%) of the reductions in the Basic Rent that would have occurred had Lender or

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Landlord, as the case may be, elected to retain the entire Net Surplus Award and give Tenant a reduction in Basic Rent in the same proportion as the percentage of the building area subject to the Taking; that portion of the Net Surplus Award in excess of the amount so received by Tenant shall be retained by Lender, if any, or, if no Lender, then Landlord; and the Basic Rent shall not be reduced.

(c) In the event of a Requisition of any of the Leased Premises, Landlord shall apply the Net Award of such Requisition, to the extent available, to the installments of Basic Rent, Additional Rent or other sums payable by Tenant hereunder thereafter payable and Tenant shall pay any and all unpaid balance remaining thereafter. Upon the expiration of the Term, any portion of such Net Award that shall not previously have been credited to Tenant on account of the Basic Rent and Additional Rent shall be retained by Landlord.

(d) Except with respect to an award or payment to which Tenant is entitled pursuant to the foregoing provisions of this Paragraph 12, no agreement with any condemnor in settlement of or under threat of any Condemnation shall be made by either Landlord or Tenant without the written consent of the other, and of Lender, if the Leased Premises are then subject to a Mortgage, which consent shall not be unreasonably withheld or delayed provided such award or payment is applied in accordance with this Lease.

13. **INSURANCE.** (a) Tenant shall maintain at its sole cost and expense the following insurance on the Leased Premises:

(i) Insurance against loss or damage to the Improvements under an ISO "Special Form" Policy (or its equivalent) which shall include terrorism insurance (unless unavailable under such form of insurance policy), flood insurance (if the Leased Premises are in a flood zone) and earthquake insurance (if customarily required by lenders for property similar to, and in an area which has a similar earthquake potential as, the Leased Premises), and which may otherwise contain other exclusions if endorsements providing insurance for such exclusions are either not available or cannot be obtained at a commercially reasonable premium, in amounts

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to prevent Landlord or Tenant from becoming a co-insurer under the applicable policies, and in any event in amounts not less than 100% of the full, actual replacement cost of the Improvements (excluding footings and foundations and parts of the Improvements which are not insurable) and which may contain a deductible of not more than \$150,000.

(ii) Contractual and commercial general liability insurance against claims for bodily injury, death or property damage occurring on, in or about any of the Leased Premises or the Adjoining Property, which insurance shall be written on a so-called "occurrence basis," and shall provide minimum protection with a combined single limit in an amount not less than \$5,000,000 (or in such increased limits from time to time to reflect declines from the date hereof in the purchasing power of the dollar as Landlord or Lender may reasonably request) and which may contain a deductible of not more than \$50,000.

(iii) Worker's compensation insurance covering all persons employed by Tenant on the Leased Premises in connection with any work done on or about any of the Leased Premises.

(iv) Pollution legal liability, on a claims-made policy form, with limits of \$10,000,000 for each incident and \$15,000,000 in the aggregate (as of each annual policy renewal date), with a deductible of not more than \$100,000 per incident with respect to the Leased Premises (including the Motor Fuels Equipment), providing coverage for on-site clean-up expenses and third party claims arising out of pollution conditions, as set forth in the form of policy provided to Landlord prior to the Commencement Date.

(v) Rental loss insurance covering a period of 18 months in an amount equal to all Basic Rent and Additional Rent payable under this Lease over the immediately following 18-month period; the amount of such rental loss insurance shall be increased from time to time as and when Basic Rent and/or Additional Rent payable under this Lease increases.

(vi) If terrorism insurance is unavailable under the type of policy described in Section 13(a)(i) above, a separate all risk terrorism policy covering the Leased

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Premises in an amount not less than the actual replacement cost of the Improvements and which may contain a deductible of not more than \$50,000.

(b) The insurance required by Paragraph 13(a) shall be written by companies having a claim rating ability of not worse than AA from S&P. All companies providing insurance required by Paragraph 13(a) shall be authorized to do an insurance business in the State or otherwise agreed to by Landlord and Lender. The insurance policies shall be for a term of not less than one year, and shall (except for worker's compensation insurance and the insurance required under Paragraph 13(a)(i) above) name Landlord, Tenant and any Lender as additional insured parties, as their respective interests may appear and shall name Lender, if any, as mortgagee and loss payee on the insurance required under Paragraph 13(a)(i) above. If said insurance or any part thereof shall expire, be withdrawn, become void by breach of any condition thereof by Tenant or become void for any other reason or should the insurer's rating decrease to a rating worse than AA from S&P as required above, Tenant shall immediately obtain new or additional insurance that satisfies the requirements of this Lease.

(c) Each insurance policy referred to above shall, to the extent applicable, contain standard non-contributory mortgagee clauses in favor of any Lender. As evidence of the insurance specified in Paragraph 13(a)(i),(iv), (v) and (vi), required to be maintained by Tenant, Tenant shall deliver to Landlord and Lender an ACORD 28 (2003) Evidence of Property Insurance or other certificate providing at least the same assurances (or, if limited by Legal Requirements, then a certificate providing as many of the same assurances as allowed by applicable law). As evidence of the insurance specified in Paragraph 13(a)(ii) and (iii), required to be maintained by Tenant, Tenant shall deliver to Landlord and Lender an ACORD 25 Certificate of Insurance or other certificate providing at least the same assurances. Each such ACORD certificate shall provide that the insurance company will give Landlord and Lender at least 30 days written notice prior to the termination or cancellation of, or changes to, the policy. Each policy required to be carried by Tenant shall also provide that any loss otherwise payable thereunder shall be payable notwithstanding (i) any act or omission of Landlord, or Tenant which might, absent such provision, result in a forfeiture of all or a part of such insurance payment, (ii)

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the occupation or use of any of the Leased Premises for purposes more hazardous than permitted by the provisions of such policy, (iii) any foreclosure or other action or proceeding taken by any Lender pursuant to any provision of the Mortgage upon the happening of an event of default therein, or (iv) any change in title or ownership of any of the Leased Premises. If requested by Lender, Tenant shall deliver a copy of the requested insurance policy to Lender.

(d) Tenant shall pay, at least thirty (30) days before they become due, all premiums for the insurance required by this Paragraph 13, shall renew or replace each policy and shall deliver to Landlord and Lender, the appropriate assurances for such renewals or replacements in accordance with the provisions of this Paragraph 13 at least thirty (30) days before expiration of the then-effective coverage. In the event of Tenant's failure to maintain any of the insurance required by this Paragraph 13, Landlord or Lender shall be entitled to procure such insurance. Any sums expended by Landlord or Lender in procuring such insurance shall be Additional Rent and shall be repaid by Tenant, together with interest thereon at the Default Rate, from the time of payment by Landlord or Lender until fully repaid by Tenant immediately upon written demand therefor by Landlord or Lender, as the case may be.

(e) Anything in this Paragraph 13 to the contrary notwithstanding, any insurance which Tenant is required to obtain pursuant to Paragraph 13(a) may be carried under a "blanket" policy or policies covering other properties or liabilities of Tenant, provided that such "blanket" policy or policies shall specifically allocate to the Leased Premises the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate policy insuring only the Leased Premises in compliance with the provisions of this Paragraph 13. In the event any such insurance is carried under a blanket policy, Tenant shall deliver to Landlord and Lender upon request a certified copy of those provisions of the blanket policy that pertain to the Leased Premises to evidence the issuance and effectiveness of the policy, the amount and character of the coverage with respect to the Leased Premises and the presence in the policy of provisions of the character required in the above sections of this Paragraph 13.

(f) Tenant hereby waives any and all rights of recovery against Landlord and Lender, or against their respective officers, employees, agents or representatives; for loss of or damage to property or the property of others under its control, if such loss or damage is covered by any insurance policy (whether or not described in this Lease) in force, or required by the terms of this Lease to be in force at the time of such loss or damage. Tenant shall obtain for the benefit of Landlord and Lender on any property insurance policy required hereunder a waiver of any right of subrogation which the insurer might otherwise acquire against Landlord or Lender (or such party's officers, employees, agents or representatives) by virtue of the payment of any loss covered by insurance or otherwise.

14. **DAMAGE, DESTRUCTION.** (a) In the event of any casualty loss exceeding \$150,000, Tenant shall give Landlord and Lender immediate notice thereof. Tenant shall adjust and compromise any and all such claims, with the consent of Lender and Landlord, not to be unreasonably withheld or delayed and Landlord and Lender shall have the right to join with Tenant therein. All proceeds shall be paid to a Trustee which shall be a federally insured bank or other financial institution, selected by Landlord and Tenant and reasonably satisfactory to Lender (the "**Trustee**"). If the Leased Premises shall be covered by a Mortgage, Lender, if it so desires, shall be the Trustee. Each insurer is hereby authorized and directed to make payment under said policies directly to such Trustee instead of to Landlord and Tenant jointly; and Tenant hereby appoints such Trustee as Tenant's attorney-in-fact to endorse any draft therefor for the purposes set forth in this Lease after approval by Tenant of such Trustee, if Trustee is other than Lender, such approval not to be unreasonably withheld or delayed.

(b) In the event of any casualty (whether or not insured against) resulting in damage to the Leased Premises or any part thereof, the Term shall nevertheless continue and there shall be no abatement or reduction of Basic Rent, Additional Rent or any other sums payable by Tenant hereunder. The Net Proceeds of such insurance payment shall be retained by the above-mentioned Trustee and, promptly after such casualty, Tenant shall commence and diligently continue to perform the Restoration to the Leased Premises. Upon payment to the Trustee of such Net Proceeds, the Trustee shall, to the extent available, make the Net Proceeds

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available to Tenant for restoration, in accordance with the provisions of Paragraph 15. Tenant shall, whether or not the Net Proceeds are sufficient for the purpose, promptly repair or replace the Improvements as nearly as possible to their value and condition and character immediately prior to such event and otherwise in accordance with all Insurance Requirements and Legal Requirements and the provisions of this Lease (including Tenant's making any desired Alterations allowed hereunder) and the Net Proceeds of such loss shall thereupon be payable to Tenant, subject to the provisions of Paragraph 15 hereof.

(c) In the event that any damage or destruction shall occur at such time as Tenant shall not have maintained insurance in accordance with Paragraph 13(a)(i), or if such insurance is maintained with a deductible permitted by this Lease Tenant shall pay to the Trustee the amount of the proceeds that would have been payable had such insurance program been in effect or the amount of the deductible, as the case may be (the "**Tenant Insurance Payment**").

15. **RESTORATION.** The Net Proceeds and Tenant Insurance Payment (the aggregate of which and any interest thereon being herein defined as the "**Restoration Fund**") paid to the Trustee shall be disbursed by the Trustee in accordance with the following conditions:

(a) At the time of any disbursement, no Event of Default shall exist and no mechanics' or materialmen's liens shall have been filed and remain undischarged and unbonded.

(b) If the cost of Restoration exceeds \$150,000, prior to commencement of the Restoration, the architects, contracts, contractors and plans and specifications for the Restoration shall have been approved by Landlord and Lender, which approval shall not be unreasonably withheld or delayed.

(c) Each request for disbursement shall be accompanied by a certificate of Tenant, signed by Tenant's architect or other professional designated by Tenant, describing the completed work for which payment is requested, stating the cost incurred in connection therewith and stating that Tenant has not previously received payment for such work and the certificate to be delivered by Tenant upon completion of the work shall, in addition, state that the

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work has been completed and complies with the applicable requirements of this Lease and all Legal Requirements and Insurance Requirements.

(d) Disbursements shall be made from time to time in an amount not exceeding the cost of the work completed since the last disbursement upon receipt by Landlord and Lender of (1) satisfactory evidence, including architects' certificates, of the stage of completion, of the estimated cost of completion and of performance of the work to date in a good and workmanlike manner in accordance with the contracts and plans and specifications approved by Landlord and Lender, (2) waivers of liens, (3) a satisfactory bring down of title insurance, and (4) other evidence of cost and payment so that Landlord and Lender can verify that the amounts disbursed from time to time are represented by work that is completed in place and free and clear of mechanics' liens and mechanics' lien enforcement actions.

(e) The Trustee, at Landlord's or Lender's election, shall retain ten (10%) percent from each disbursement of the Restoration Fund until the Restoration is fully completed and the Leased Premises are available for their intended use, in the reasonable judgment of the Lender, including the issuance of any necessary certificate of occupancy.

(f) Prior to commencement of Restoration and at any time during Restoration, if the estimated cost of Restoration, as reasonably determined by Landlord or Lender, exceeds the amount of the Restoration Fund, the amount of such excess shall be paid by Tenant to the Trustee to be added to the Restoration Fund prior to any further disbursement or Tenant shall fund at its own expense the costs of such Restoration until the remaining Restoration Fund is sufficient for the completion of the Restoration. Except for the payment to Landlord or Lender of the Net Surplus Award, referred to in Paragraph 12(b), any sum in the Restoration Fund which remains in the Restoration Fund upon the completion of Restoration shall be paid to Tenant.

(g) If Tenant does not diligently pursue the completion of the Restoration to the satisfaction of Landlord, Landlord shall have the right to give written Notice to Tenant, which notice shall specify the exact reason(s) Landlord maintains that Tenant is not pursuing the completion of the Restoration (the "**Restoration Notice**"). Upon receipt of the Restoration

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Notice, Tenant shall have thirty (30) days to either: (i) cure the deficiencies specified in the Restoration Notice, or if such deficiency cannot be cured within such period of thirty (30) days, such period shall be extended for such longer time as reasonably necessary provided that Tenant has commenced to cure such deficiency within said period of thirty (30) days and is actively, diligently and in good faith proceeding with continuity to remedy such failure; or (ii) demonstrate to Landlord in writing, with sufficient supporting documentation attached, that to the extent that Tenant is not hampered by a legal impediment not caused by Tenant (which shall include, without limitation, delays or stoppages caused by delays in the permitting process), Tenant is actively, diligently, and in good faith proceeding with continuity to complete the Restoration. If Tenant fails to do either of the preceding within such thirty (30) day period, Landlord shall have the right (without limiting its right to exercise its rights and remedies under Paragraphs 19 and 20) to take over control of the Restoration, in which event Landlord shall have access to the Restoration Fund to perform such Restoration. In such event, any sum which remains in the Restoration Fund upon the completion of the Restoration shall be paid to Landlord.

16. **SUBORDINATION TO FINANCING.** (a) Subject to the following provisions of this Paragraph 16(a), Tenant agrees that this Lease shall, upon Landlord's and Lender's (if any) written request, be subject and subordinate to the lien of any Mortgage, and Tenant agrees, upon demand, without cost to Landlord or Lender, to execute instruments as may be required to further effectuate or confirm such subordination. So long as no Event of Default shall be outstanding, Tenant's tenancy shall not be disturbed, nor shall this Lease be affected by any default under such Mortgage, and in the event of a foreclosure or other enforcement of any such Mortgage, or sale in lieu thereof, the purchaser at such foreclosure sale or pursuant to a deed in lieu thereof shall be bound to Tenant for the Term of this Lease and any extensions thereof, the rights of Tenant hereunder shall expressly survive, and this Lease shall in all respects continue in full force and effect so long as no Event of Default by Tenant has occurred and is continuing. So long as no Event of Default by Tenant has occurred and is continuing, Tenant shall not be named as a party defendant in any such foreclosure suit, except as may be required by Legal Requirements. Any Mortgage to which this Lease is now or hereafter subordinate shall provide, in effect, that during

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the time this Lease is in force all insurance proceeds and condemnation awards shall be permitted to be used for restoration in accordance with the provisions of this Lease.

(b) Notwithstanding the provisions of subdivision (a) of this Paragraph 16, the holder of the Mortgage to which this Lease is subject and subordinate, as provided in said subdivision (a), shall have the right, at its sole option, at any time, to subordinate and subject the Mortgage, in whole or in part, to this Lease by recording a unilateral declaration to such effect.

(c) At any time prior to the expiration of the Term, Tenant agrees, at the election and upon demand of any owner of the Leased Premises, or of Lender who has granted non-disturbance to Tenant pursuant to Paragraph 16(a) above, to attorn, from time to time, to any such owner or Lender, upon the then executory terms and conditions of this Lease, for the remainder of the term originally demised in this Lease and for any renewal term, provided that such owner or Lender shall then be entitled to possession of the Leased Premises subject to the provisions of this Lease. The provisions of this subdivision (c) shall inure to the benefit of any such owner or Lender, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the foreclosure of the Mortgage, shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions.

(d) Each of Tenant and Landlord agrees that, if requested by the other, each shall, without charge, enter into (i) a Subordination, Non-Disturbance and Attornment Agreement reasonably requested by Lender, provided such agreement contains provisions relating to non-disturbance in accordance with the provisions of subparagraph (a), and (ii) an agreement with Lender whereby Tenant shall agree for the benefit of Lender that Tenant will not, without in each case the prior written consent of Lender, (a) amend, modify, cancel or surrender the term of this Lease except as expressly permitted by the provisions of this Lease, or enter into any agreement with Landlord so to do, or (b) pay any installment of Basic Rent more than one (1) month in advance of the due date thereof or otherwise than in the manner provided for in this Lease.

17. **ASSIGNMENT, SUBLEASING.** (a) Tenant may not assign its interest in this Lease. Tenant may sublease any portion(s) of the Leased Premises with the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. No sublease shall relieve Tenant of its obligations hereunder, which shall continue as the obligations of a principal and not as the obligations of a surety or a guarantor. Notwithstanding any merger, consolidation or sale (i) of the Tenant, (ii) of any parent, subsidiary or affiliate of the Tenant or (iii) of any or all of the assets of the Tenant or any parent, subsidiary or affiliate of the Tenant, the Tenant (and any successor of the Tenant by such merger, sale or consolidation) shall continue to be obligated for all of the Tenant's obligations hereunder without any abatement, diminution, set-off, reduction, rebate, termination, or decrease. The joint and several liability of Tenant named herein and any immediate and remote successor in interest of Tenant, and the due performance of the obligations of this Lease on Tenant's part to be performed or observed, shall not in any way be discharged, released or impaired by any (i) agreement which modifies any of the rights or obligations of the parties under this Lease, (ii) stipulation which extends the time within which an obligation under this Lease is to be performed, (iii) waiver of the performance of an obligation required under this Lease, or (iv) failure to enforce any of the obligations set forth in this Lease, unless in each case, the same has been consented to by Landlord and Lender.

(b) Each sublease of the Leased Premises or any part thereof shall be subject and subordinate to the provisions of this Lease, and a duplicate original thereof shall be delivered to Landlord and Lender within fifteen (15) days after the execution and delivery of such sublease. Actions affecting the Leased Premises by the subtenant (including, but not limited to, a holding over by a subtenant after the expiration or sooner termination of this Lease) shall also be deemed actions taken by Tenant.

(c) Upon the occurrence of an Event of Default under this Lease, Landlord shall have the right to collect and enjoy all rents and other sums of money payable under any sublease of any of the Leased Premises, and Tenant hereby irrevocably and unconditionally assigns such rents and money to Landlord, which assignment may be exercised upon and after (but not before) the occurrence of an Event of Default. All subleases shall provide that upon

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notice from Landlord and/or Lender of an Event of Default, all rent due under such sublease shall be paid as so directed.

(d) In the event of a termination of this Lease, any subtenant of the Leased Premises shall, at the option of Landlord or Lender, exercisable within thirty (30) days after such termination, attorn to Landlord. Each subtenant who hereafter takes an interest in the Leased Premises shall be deemed to have agreed to the provisions of this Paragraph 17(d). Tenant covenants that each sublease of the Leased Premises hereafter executed shall contain a clause expressly providing that the subtenant thereunder shall attorn to Landlord, upon request of Landlord or Lender, in the event of a termination of this Lease, but the absence of such a clause from any sublease shall not relieve the subtenant from the provisions of this Paragraph 17(d). In the event Landlord and Lender expressly waive such right of attornment or do not timely exercise the option to have a subtenant attorn as aforesaid, such sublease shall automatically terminate.

18. PERMITTED CONTESTS. Notwithstanding any provision of this Lease to the contrary, after prior Notice to Landlord and Lender, Tenant shall not be required to (i) pay any Tax or (ii) comply with any Legal Requirement, so long as Tenant shall contest, in good faith and at its expense, the existence, the amount or the validity thereof, the amount of the damages caused thereby, or the extent of its or Landlord's liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (v) the collection of, or other realization upon, the Tax so contested, (w) the sale, forfeiture or loss of any of the Leased Premises, any Basic Rent or any Additional Rent to satisfy the same or to pay any damages caused by the violation of the same, (x) any interference with the use, occupancy, sale or financing of any of the Leased Premises, (y) any interference with the payment of any Basic Rent or any Additional Rent, and (z) the cancellation of any fire or other insurance policy. In no event shall Tenant pursue any contest with respect to any Tax or Legal Requirement referred to above in such manner that exposes Landlord, Tenant or Lender, to any criminal or civil liability, penalty or sanction. Tenant shall provide Lender or Landlord in that order, as security for such contest, an amount of cash or unconditional letter of credit (in such form and issued by an institutional lender reasonably

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acceptable to Landlord and Lender) equal to 125% of the amount being contested. While any such proceedings are pending and the required security is held by Lender or Landlord, in that order, Lender or Landlord, as the case may be, shall not have the right to pay, remove or cause to be discharged the Tax or Legal Requirement thereby being contested unless Landlord or Lender reasonably believes that any one or more of the conditions in subdivisions (v) through (z) shall not be prevented during the pendency of the contest. Tenant further agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion, except that Tenant shall, so long as all of the conditions of the first sentence of this Paragraph 18 are at all times complied with, have the right to attempt to settle or compromise such contest through negotiations. Tenant shall pay any and all judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof.

19. **DEFAULT.** The occurrence of any one or more of the following events shall constitute an Event of Default under this Lease:

(a) Tenant's failure to make any payment of Basic Rent when due which continues unremedied for a period of three (3) days, provided, however, Tenant shall not be entitled to an opportunity to cure such default if Tenant has failed to make Basic Rent payments on or before the date when due on two (2) or more occasions within the previous twelve (12) month period.

(b) Tenant's failure to make payment of Additional Rent or other sum herein required to be paid by Tenant and such default shall continue for a period of ten (10) days after notice by Landlord or Lender to Tenant.

(c) Tenant's failure to duly perform and observe the provisions of Paragraph 22(b) and such default shall continue for a period of five (5) days after notice by Landlord or

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Lender to Tenant.

(d) Tenant's failure to duly perform and observe, or Tenant's violation or breach of, any other provision hereof if such failure shall continue for a period of thirty (30) days after notice thereof from Landlord or Lender, or if such failure cannot be cured within such period of thirty (30) days, such period shall be extended for such longer time as reasonably necessary (not to exceed a total of ninety (90) days) provided that Tenant has commenced to cure such default within said period of thirty (30) days and is actively, diligently and in good faith proceeding with continuity to remedy such failure. Tenant agrees that after receiving any such notice of default referred to above in this subparagraph (d), Tenant shall, upon request of Landlord or Lender, advise the requesting party of Tenant's progress in curing such default.

(e) Tenant becomes insolvent within the meaning of the United States Bankruptcy Code, as amended (the "**Code**"), files or notifies Landlord that it intends to file a petition under the Code, initiates a proceeding under any similar law or statute relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts (any of the foregoing hereinafter referred to as, an "**Action**"), becomes the subject of either a petition under the Code or an Action, or is not generally paying its debts as the same become due.

(f) A court shall enter an order, judgment or decree appointing a receiver or trustee for it or for any of the Leased Premises or approving a petition filed against Tenant which seeks relief under the bankruptcy or other similar laws of the United States, any state or any jurisdiction, and such order, judgment or decree shall remain in force, undischarged or unstayed, sixty days after it is entered.

(g) Tenant shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution, or shall, in any manner, permit the divestiture of all or substantially all of its assets other than in connection with a merger or consolidation of Tenant, as the case may be, into, or a sale of all or substantially all of Tenant's assets to, another corporation provided that the survivor of such merger or consolidation, or the purchaser of such assets, shall assume all of Tenant's obligations under this Lease by a written instrument, in form and

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substance satisfactory to Landlord and Lender, accompanied by an opinion of counsel, satisfactory to Landlord and Lender, stating that such instrument of assumption is valid, binding and enforceable against the parties thereto in accordance with its terms, and provided further that, immediately after giving effect to any such merger or consolidation or sale of such assets, the survivor of such merger or consolidation, or the purchaser of such assets, as the case may be, shall have a consolidated tangible net worth equal or greater than that of Tenant, as the case may be, immediately prior to such merger or consolidation or sale of such assets, as the case may be.

(h) The estate or interest of Tenant in any of the Leased Premises shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be vacated or discharged within sixty (60) days after such levy or attachment.

Tenant acknowledges and agrees that all notice periods provided in this Paragraph 19 are in lieu of, and not in addition to any notice periods provided by law.

20. LANDLORD'S REMEDIES. After the occurrence of an Event of Default by Tenant, Landlord shall have the right to exercise the following remedies:

(a) Landlord may, at its option, continue this Lease in full force and effect, without terminating Tenant's right to possession of the Leased Premises, in which event Landlord shall have the right to collect Basic Rent, Additional Rent and all other charges when due. In the alternative, Landlord shall have the right to peaceably re-enter the Leased Premises on the terms set forth in subparagraph (b) below, but without such re-entry being deemed a termination of the Lease or an acceptance by Landlord of a surrender thereof. Landlord shall also have the right, at its option, from time to time, without terminating this Lease, to relet the Leased Premises, or any part thereof, with or without legal process, as the agent, and for the account, of Tenant upon such terms and conditions as Landlord may deem advisable (which terms may be materially different from the terms of this Lease), in which event the rents received on such reletting shall be applied (i) first to the reasonable and actual expenses of such reletting and collection, including without limitation necessary renovation and alterations of the Leased

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Premises, reasonable and actual attorneys' fees and any reasonable and actual real estate commissions paid, and (ii) thereafter toward payment of all sums due or to become due Landlord hereunder. If a sufficient amount to pay such expenses and sums shall not be realized or secured, then Tenant shall pay Landlord any such deficiency monthly, and Landlord may bring an action therefor as such monthly deficiency shall arise. Landlord shall not, in any event, be required to pay Tenant any sums received by Landlord on a reletting of the Leased Premises in excess of the rent provided in this Lease, but such excess shall reduce any accrued present or future obligations of Tenant hereunder. Landlord's re-entry and reletting of the Leased Premises without termination of this Lease shall not preclude Landlord from subsequently terminating this Lease as set forth below.

(b) Landlord may terminate this Lease by written notice to Tenant specifying a date therefor, which shall be no sooner than ten (10) days following notice to Tenant, and this Lease shall then terminate on the date so specified as if such date had been originally fixed as the expiration date of the Term. In the event of such termination, Landlord shall be entitled to recover from Tenant the worth at the time of the payment by Tenant of all of the following:

(i) Any obligation which has accrued prior to the date of termination, plus,

(ii) The amount of unpaid Basic Rent, Additional Rent and all other charges which would have accrued after termination until the time of the payment by Tenant, plus,

(iii) The amount by which the unpaid Basic Rent and Additional Rent for the balance of the Term (excluding any option periods not previously exercised) exceeds the fair and reasonable rental value of the Leased Premises for such period (taking into account, among other factors, the anticipated duration that the Leased Premises would be unoccupied prior to reletting and the anticipated costs of reletting the Leased Premises, including those types of costs set forth in (a)(i) above).

As used in this Paragraph 20(b), the term, "worth at the time of the payment", shall be computed by allowing simple interest at the Default Rate on the obligations referred to in clauses (i) and (ii) of this Paragraph 20(b), and employing a discount rate equal to 4% on the obligations referred to in clause (iii) of this Paragraph 20(b), on the amount of the obligations payable on the date of such calculation. In the event this Lease shall be terminated as provided above, by summary proceedings or otherwise, Landlord, its agents, servants or representatives may immediately or at any time thereafter peaceably re-enter and resume possession of the Leased Premises and remove all persons and property therefrom, by summary dispossession or similar proceedings.

(c) Tenant agrees that neither Landlord nor Lender shall have any obligation to mitigate damages hereunder following a termination of this Lease due to an Event of Default, and in any action or claim by Landlord or Lender against Tenant due to breach of this Lease following an Event of Default the amount of damages to which Landlord and/or Lender may be entitled shall not be reduced to reflect any loss which Landlord or Lender may be able to recover by reletting of the Leased Premises or other efforts at mitigation. To the extent that applicable law requires Landlord to mitigate damages, Tenant agrees that it shall have the burden of proving the amount of damages which Landlord and/or Lender may be able to recover by mitigation and that Landlord shall have no obligation to subdivide the Leased Premises or to lease the Leased Premises other than on a triple net basis to a tenant whose long term debt is rated at least investment grade by Standard & Poor's Corporation.

(d) Landlord may recover from Tenant, and Tenant shall pay to Landlord upon demand, as Additional Rent, such reasonable and actual expenses as Landlord may incur in recovering possession of the Leased Premises, placing the same in good order and condition and repairing the same for reletting, and all other reasonable and actual expenses, commissions and charges incurred by Landlord in exercising any remedy provided herein or as a result of any Event of Default by Tenant hereunder (including without limitation attorneys' fees).

(e) Except as provided in Paragraph 9(b) or 13(d), at any time upon prior

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notice to Tenant, Landlord and Lender shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of the failure or neglect of Tenant to comply with any of its obligations under this Lease (Landlord and Lender shall not, however, exercise any such rights unless the failure or neglect shall have ripened into an Event of Default), and in the event of the exercise of such right by Landlord or Lender, Tenant agrees to pay to Landlord or Lender forthwith upon demand, as Additional Rent, all such sums including reasonable attorneys fees, together with interest thereon at the Default Rate.

(f) The various rights and remedies reserved to Landlord herein are cumulative, the rights and remedies described in Paragraph 20(a)-(e) shall survive termination of this Lease and Landlord may pursue any and all such rights and remedies and any other available to Landlord under applicable law or equity, whether at the same time or otherwise (to the extent not inconsistent with specific provisions of this Lease). To the extent permitted under applicable law, Landlord expressly reserves its right to forcibly dispossess Tenant from the Leased Premises, whether peaceably or otherwise, without judicial process.

21. **NOTICES.** All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given pursuant to the provisions of this Lease (collectively "Notice" or "Notices") shall be in writing and shall be deemed to have been given for all purposes (i) three (3) days after having been sent by United States mail, by registered or certified mail, return receipt requested, postage prepaid, addressed to the other party at its address as stated below, or (ii) one (1) day after having been sent by Federal Express, United Parcel Service or other nationally recognized air courier service, to the Addresses stated below:

- (a) If to Landlord, at the address set forth on the first page of this Lease.
- (b) If to Tenant, at the address set forth on the first page of this Lease.
- (c) If to Lender, at the address provided for such purpose.

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If any Lender shall have advised Tenant by Notice in the manner aforesaid that it is the holder of a Mortgage and stating in said Notice its address for the receipt of Notices, then simultaneously with the giving of any Notice by Tenant to Landlord, Tenant shall serve one or more copies of such Notice upon Lender in the manner aforesaid and no Notice shall be effective unless and until Lender shall be sent a copy thereof. Landlord agrees that Tenant shall be entitled to rely on any such notice from any party who Tenant has been notified by Landlord is a "Lender" hereunder. For the purposes of this Paragraph, any party may substitute its address by giving fifteen days' notice to the other party in the manner provided above.

22. **MEMORANDUM OF LEASE; ESTOPPEL CERTIFICATES.** (a) Tenant shall execute, deliver and record, file or register from time to time all such instruments as may be required by any present or future law in order to evidence the respective interests of Landlord and Tenant in any of the Leased Premises, and shall cause a memorandum of this Lease, and any supplement hereto or to such other instrument, if any, as may be appropriate, to be recorded, filed or registered and re-recorded, refiled or re-registered in such manner and in such places as may be required by any present or future law in order to give public notice and protect the validity of this Lease. In the event of any discrepancy between the provisions of said recorded memorandum of this Lease or any other recorded instrument referring to this Lease and the provisions of this Lease, the provisions of this Lease shall prevail.

(b) Landlord and Tenant shall, at any time and from time to time, upon not less than fifteen (15) days' prior written request by the other (or, in the case of an estoppel certificate requested of either, upon not less than fifteen (15) days' prior written request of Lender), execute, acknowledge and deliver to the other and Lender, if applicable, a statement in writing, executed by Landlord or Tenant by its duly authorized officer thereof certifying (i) that this Lease (a copy of which shall be attached to such statement) is unmodified and in full effect (or, if there have been modifications, that this Lease is in full force and effect as modified, setting forth such modifications), (ii) the dates to which Basic Rent payable hereunder has been paid, (iii) that, to the knowledge of the party executing such certificate, no default by either Landlord or Tenant exists hereunder or specifying each such default of which such party may

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have knowledge; (iv) the remaining Term hereof; (v) with respect to a certificate signed by Tenant, that to Tenant's knowledge there are no proceedings pending or threatened against Tenant before or by any court or administrative agency which if adversely decided would materially and adversely affect the financial condition and operations of Tenant or if any such proceedings are pending or threatened to said party's knowledge, specifying and describing the same; (vi) with respect to a certificate signed by Tenant, that no rent has been paid under the Lease for more than one (1) month in advance; and (vii) with respect to a certificate signed by Tenant, that to Tenant's knowledge Tenant is in full compliance with all federal, State and local laws, ordinances, rules and regulations affecting its use of the Leased Premises, including but not limited to the handling, storage and disposal of hazardous and/or toxic materials used or generated as a result of its business conducted on or about the Leased Premises. It is intended that any such statements may be relied upon by Lender, the recipient of such statements or their assignees or by any prospective mortgagee, purchaser, or subtenant of the Leased Premises.

23. **SURRENDER AND HOLDING OVER.** Upon the expiration or earlier termination of this Lease, Tenant shall peaceably leave and surrender the Leased Premises to Landlord in the condition the Leased Premises are required to be maintained pursuant to the provisions of this Lease except for ordinary wear and tear and damage by fire, casualty or condemnation but only to the extent Tenant is not required to repair the same hereunder. Tenant may remove at Tenant's sole cost and expense from the Leased Premises on or prior to such expiration or earlier termination Trade Fixtures and personal property which are owned by Tenant or third parties other than Landlord, and Tenant at its expense shall, on or prior to such expiration or earlier termination, repair any damage caused by such removal. Trade Fixtures and personal property not so removed at the end of the Term or within fifteen (15) days after the earlier termination of the Term for any reason whatsoever shall become the property of Landlord, and Landlord may thereafter, at Tenant's sole cost and expense, cause such property to be removed from the Leased Premises. Landlord shall not in any manner or to any extent be obligated to reimburse Tenant for any property which becomes the property of Landlord as a result of such expiration or earlier termination. Upon such expiration or earlier termination, no party shall have any further rights or obligations hereunder except as specifically provided herein.

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Any holding over by Tenant of the Leased Premises after the expiration or earlier termination of the term of this Lease or any extensions thereof, with the consent of Landlord, shall operate and be construed as tenancy from month to month only, at one hundred fifty percent (150%) of the Basic Rent reserved herein and upon the same terms and conditions as contained in this Lease. Notwithstanding the foregoing, any holding over without Landlord's consent shall entitle Landlord, in addition to collecting Basic Rent at a rate of one hundred fifty percent (150%) thereof, to exercise all rights and remedies provided by law or in equity, including the remedies of Paragraph 20.

If to the extent there is any Legal Requirements with respect to the transfer of possession of the Leased Premises from Tenant to Landlord, Tenant shall be obligated to comply therewith and reimburse Landlord for any costs it incurs in connection therewith. The obligations of Tenant and the rights and remedies of Landlord under this Paragraph 23 shall survive the expiration or earlier termination of this Lease.

24. NO MERGER OF TITLE. There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in or ownership of any of the Leased Premises by reason of the fact that the same Person may acquire or hold or own, directly or indirectly, (i) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in such leasehold estate and (ii) the fee estate or ownership of any of the Leased Premises or any interest in such fee estate or ownership. No such merger shall occur unless and until all Persons having any interest in (x) this Lease or the leasehold estate created by this Lease and (y) the fee estate in or ownership of the Leased Premises including, without limitation, Lender's interest therein, or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

25. LANDLORD AND LENDER EXCULPATION. Anything contained herein to the contrary notwithstanding, any claim based on or in respect of any liability of Landlord under this Lease shall be enforced only against the Landlord's interest in the Leased Premises and shall not be enforced against the Landlord individually or personally. Tenant agrees that any assignment

by Landlord to Lender of Landlord's interest in this Lease; or the rent, payable hereunder, whether absolute or conditional in nature or otherwise, whether such assignment is made to the Lender solely as additional collateral related to a mortgage or otherwise, and the acceptance thereof by Lender shall never be treated as an assumption by Lender of any obligations of Landlord hereunder unless Lender shall, by notice sent to Tenant, specifically elect, and that Lender shall be treated as having assumed Landlord's obligations hereunder only upon purchase of the Leased Premises pursuant to foreclosure of the Mortgage or by deed in lieu thereof, or other conveyance and then only subject to the limitations set forth in the first sentence hereof. In addition, the parties hereto acknowledge and agree that Landlord may condition any consent or approval required under this Lease on Landlord's receipt of the written consent or approval of Lender if required under the documents relating to the Mortgage.

26. **MATERIALS OF ENVIRONMENTAL CONCERN.** (a) For the purposes of this Paragraph 26, the terms listed below shall have the meanings ascribed herein:

"Environmental Claim" means any claim, action, investigation or written notice by any Person alleging potential liability (including, without limitation, potential liability for Remedial Work, investigatory costs, cleanup costs, governmental response costs, natural resource damages, property damages, personal injuries or penalties) arising out of, based on or resulting from (A) the presence, or release or threatened release of any Materials of Environmental Concern on, in, under, at or emanating from the Leased Premises, or (B) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law.

"Environmental Laws" shall include all Legal Requirements (along with common law or strict liability provisions, and any judicial or administrative interpretations thereof, including any applicable judicial or administrative orders or judgments) relating to health, safety, industrial hygiene, Materials of Environmental Concern, pollution, the environment, or related matters including, but not limited to each of the following, as enacted as of the date hereof or as hereafter amended; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.

§6901 et seq.; the Toxic Substance Control Act, 15 U.S.C. §2601 et seq.; the Water Pollution Control Act (also known as the Clean Water Act), 33 U.S.C. §1251 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; and the Hazardous Materials Transportation Act, 49 U.S.C. §1801 et seq.

“Materials of Environmental Concern” means any hazardous or toxic waste, hazardous or toxic substance, pollutant, contaminant, oil or petroleum product, or other solid, liquid, or gaseous substance or product (i) that is currently or hereafter listed, regulated, or designated as, or is determined to be (in whole or in part), toxic, hazardous, or harmful (or words of similar meaning and regulatory effect), or with respect to which governmental regulatory obligations (including, without limitation, recordkeeping, remedial or closure obligations) may be imposed, under any Environmental Laws, or (ii) exposure to which may pose an environmental, health, or safety threat or hazard.

“Regulated Activity” means the use, presence, release or threatened release, discharge, generation, manufacture, recycling, transportation, processing, refinement, treatment, storage, disposal or other handling of Materials of Environmental Concern.

“Remedial Work” means, without limitation, investigation, characterization, testing, sampling, monitoring, removal, response, remedial actions, transportation, disposal, restoration, cleanup, and similar activities.

(b) Tenant represents and warrants to Landlord that neither the Leased Premises, nor any portion thereof, has been used by Tenant or, to the best of Tenant’s knowledge, by any prior owner or tenant for a Regulated Activity except to the extent expressly permitted by the terms of this Paragraph 26(b). Tenant covenants that it (i) will comply, and will cause the Leased Premises to comply, with all Environmental Laws applicable to the Leased Premises; (ii) will not use, and shall prohibit the use of, the Leased Premises for Regulated Activities (other than the storage or handling of Materials of Environmental Concern in connection with operations conducted at the Leased Premises at the commencement of the Term and maintenance of the Leased Premises in the ordinary course of business and in commercially reasonable quantities as a consumer and generator thereof, subject to compliance with applicable

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Environmental Laws); (iii) will not install or permit the installation on the Leased Premises of any tanks, pits, sumps or surface impoundments (unless and only to the extent this Lease specifically permits Tenant to do so); (iv) shall respond to the presence of Materials of Environmental Concern on, in or under the Leased Premises in accordance with Paragraph 26(c) of this Lease; *provided, however*, that in the event that Tenant believes that applicable Environmental Laws requires reporting to governmental authorities with respect to the Leased Premises or environmental conditions at the Leased Premises, it shall first promptly notify Landlord in writing, and the parties shall cooperate in determining whether such requirements apply before any such reporting requirements are addressed; (v) shall cause any Alterations of the Leased Premises to be done in a way which complies with applicable Environmental Laws relating to exposure of persons working on or visiting the Leased Premises to Materials of Environmental Concern and, in connection with any such Alteration, shall remove any Materials of Environmental Concern present upon the Leased Premises which are not in compliance with applicable Environmental Laws or which may present a risk to persons working on or visiting the Leased Premises; (vi) shall not install in the Leased Premises, or permit to be installed in the Leased Premises, asbestos or any asbestos-containing materials in any form that is or could be friable or any other Materials of Environmental Concern that could reasonably be expected to prove a present or future risk to human health or the environment; and (vii) shall cause the Leased Premises to be operated and maintained in such a manner so that mold, other indoor air pollutants, and/or other materials, the exposure to which may pose human health risks, do not present such an exposure risk at the Leased Premises. Additionally, Landlord agrees that Tenant may use household and commercial cleaners and chemicals to maintain the Leased Premises, provided that such use is in compliance with all Environmental Laws. Landlord and Tenant acknowledge that any or all of the cleaners and chemicals described in this Paragraph may constitute Materials of Environmental Concern. However, Tenant may use, handle and store such chemicals and cleaners that are Materials of Environmental Concern provided that in doing so Tenant complies with all Environmental Laws.

(c) If, at any time during the Term, Materials of Environmental Concern shall be found in, on, at, under or emanating from the Leased Premises, then Tenant shall (without {00239109.DOCX})

cost to Landlord and Lender, except to the extent otherwise provided in Paragraph 26(e) of this Lease) promptly conduct such Remedial Work as is provided in Paragraph 26(h) of this Lease.

(d) During the Term of this Lease, Tenant shall provide prompt written notice to Landlord and Lender of any of the following matters:

(i) any proceeding or investigation commenced or threatened by any governmental authority with respect to the release, threatened release or presence of any Materials of Environmental Concern affecting the Leased Premises in, on, under, from or migrating towards the Leased Premises;

(ii) any lien, action or notice with respect to the Leased Premises resulting from any violation or alleged violation of Environmental Laws or any proceeding or investigation commenced or threatened by any governmental authority with respect to the presence, suspected presence, release or threatened release of Materials of Environmental Concern from, onto, under, or migrating onto or toward the Leased Premises;

(iii) all written notices of any pending or threatened investigation or claims made or any lawsuit or other legal action or proceeding brought by any Person with respect to the Leased Premises against (A) Tenant or Landlord or the Leased Premises, or (B) any other party occupying the Leased Premises or any portion thereof, in any such case relating to any loss or injury allegedly resulting from any Materials of Environmental Concern or relating to any violation or alleged violation of Environmental Laws; or

(iv) knowledge of the presence of Materials of Environmental Concern in, on, or under the Leased Premises, or any written notice received by Tenant of any occurrence or condition on any real property adjoining or in the vicinity of the Leased Premises, which reasonably could be expected to (A) lead to the Leased Premises or any portion thereof being (x) in violation of any Environmental Laws, (y) subject to any deed recordation or restriction on ownership, occupancy, transferability or use under any Environmental Laws or Legal Requirements, or (z) impacted by Materials of Environmental Concern, including, without

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limitation, being subject to a remedial obligation under Environmental Laws, or (B) subject Tenant, Landlord, or Lender to any Environmental Claim; and

(v) the commencement of any Remedial Work, the status of the Remedial Work on an ongoing basis, and completion of the Remedial Work.

(e) Tenant shall be solely responsible for and shall defend, reimburse, indemnify and hold Landlord and Lender, any affiliates of the foregoing, and each of their respective directors, officers, employees, shareholders, members, partners, agents, successors and assigns (including, without limitation, any participants in a loan by Lender) (each such Person being an "Indemnified Party") harmless from and against all demands, claims, actions, causes of action, assessments, losses, damages, liabilities, investigations, or written notices, including costs and expenses of any kind (including without limitation, diminution in property value and expenses of investigation by engineers, environmental consultants and similar technical personnel and fees and disbursements of counsel), arising out of, in respect of or in connection with (i) Tenant's breach of its representations, warranties, covenants or other obligations in this Lease; (ii) the occurrence of any Regulated Activity at, on or under the Leased Premises at any time during or prior to the Term of this Lease; (iii) any Environmental Claim with respect to the Leased Premises against any Indemnified Party or any Person whose liability for such Environmental Claim any Indemnified Party or Tenant has or may have assumed or retained, or may be charged with, either contractually or by operation of law (provided that after the Commencement Date Landlord shall not contractually assume liability for an environmental liability which Landlord would not otherwise have by operation of law without the consent of Tenant); (iv) the release, threatened release or presence of any Materials of Environmental Concern at, on, under, in, emanating from or migrating to or from, the Leased Premises, regardless of how discovered by Tenant, Landlord or any third party, except to the extent that Tenant can demonstrate that such release, threatened release or presence occurred solely subsequent to the Term of this Lease; (v) any Remedial Work required to be performed pursuant to any Environmental Law or the terms hereof with respect to matters arising or

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occurring prior to or during the Term; (vi) any matters arising under or relating to any Environmental Law and relating to the Tenant, the Leased Premises or activities at the Leased Premises, or (vii) all other direct or indirect consequential damages (including, without limitation, any third party tort claims or governmental claims, fines or penalties). Notwithstanding the foregoing, Tenant shall not be responsible, nor be required to reimburse, indemnify, or hold an Indemnified Party harmless, to the extent that the gross negligence or willful misconduct (which gross negligence or willful misconduct Tenant shall establish) of the Indemnified Party materially contributed to the liability from which Tenant would otherwise be required to reimburse, indemnify or hold harmless under this Paragraph 26(e). Except as otherwise specifically provided herein, the indemnification provisions in this Lease shall be applicable whether or not negligence of an Indemnified Party is alleged or proven irrespective of whether negligence or a strict liability standard may apply.

(f) Upon Landlord's or Lender's request, at any time as Landlord or Lender has reasonable grounds to believe that (i) Materials of Environmental Concern (except to the extent those substances are permitted to be used by Tenant under Paragraph 26(b) in the ordinary course of its business and in compliance with all Environmental Laws) are or have been released, stored or disposed of or are otherwise present under, on, or around the Leased Premises, (ii) the Leased Premises may be in violation of the Environmental Laws, or (iii) the Leased Premises may be subject to a remedial obligation under Environmental Laws, Tenant shall provide, at Tenant's sole cost and expense, an inspection or audit of the Leased Premises prepared by a hydrogeologist or environmental engineer or other appropriate consultant approved by Landlord and Lender indicating whether the Materials of Environmental Concern are present at the Leased Premises; and, if so, the nature and extent of such presence. If Tenant fails to provide such environmental reports within fifteen (15) days after such request, Landlord may, at Tenant's expense, order the same; and Tenant hereby grants to Landlord and Lender and their respective employees and agents access to the Leased Premises upon reasonable notice and a license to undertake such inspection or audit. The foregoing notwithstanding, in the event of an emergency, Landlord or Lender may have any such inspection or audit conducted immediately at Tenant's

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expense.

(g) Without limiting the foregoing, where indicated by the environmental reports delivered to Landlord in connection with its purchase of the Leased Premises or in any other environmental assessment and where the particular conditions on the Leased Premises which formed the basis for such indication still exist, Tenant shall conduct and pursue to completion Remedial Work as provided in Paragraph 26(h) of this Lease and shall provide documentation as required by Landlord or Lender and access to the Leased Premises upon reasonable notice, by Landlord or Lender, and their respective agents, to review and assess the environmental condition of the Leased Premises.

(h) Consistent with its obligations under Paragraphs 8(a), 26(c), 26(e), and 26(f) of this Lease, Tenant shall conduct Remedial Work to the extent required by Environmental Laws and in compliance with Environmental Laws. Tenant, with approval and concurrence of Landlord, will negotiate with the relevant governmental authorities regarding the nature and extent of environmental conditions to be remediated and the work plans and/or remedial action plans to be performed by Tenant. Landlord and Tenant agree to work together to approve cleanup criteria and Remedial Work for the Leased Premises that comply with applicable Environmental Laws and are consistent with (i) the then existing zoning for the Leased Premises, and (ii) the redevelopment of the Leased Premises in the future. If Tenant proposes cleanup criteria for soils that would permit contaminants to remain in place and that would require (a) special handling of soils in connection with redevelopment activities, (b) additional cost for offsite disposal of soils, or (c) governmental approval for disturbance of soils following closure, then approval of those cleanup criteria shall be at the sole discretion of the Landlord. If Tenant proposes cleanup criteria for groundwater that would require a deed restriction or otherwise limit or prohibit the use of groundwater at the Leased Premises, then approval of those cleanup criteria shall be at the sole discretion of the Landlord. Any other restrictions proposed to be included as part of a final confirmation of closure issued for all or any part of the Leased Premises must be approved by Landlord, which shall have the right to grant or deny such approval in its sole and absolute discretion.

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(i) The obligations of Tenant to indemnify Landlord pursuant to Paragraph 26(e) and the rights and remedies of Landlord under Paragraph 26(e) shall survive the expiration or earlier termination of this Lease. Persons indemnified under this Lease will continue to be afforded the protections under this Paragraph 26 notwithstanding the assignment or other transfer of this Lease by such Persons.

(j) If recommended by any environmental assessment or audit of the Leased Premises, Tenant shall establish and comply (or cause to be established and complied) with an operations and maintenance program with respect to the Leased Premises, in form and substance reasonably acceptable to Landlord and Lender, prepared by an environmental consultant reasonably acceptable to Landlord and Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Leased Premises. Without limiting the generality of the preceding sentence, Landlord or Lender may require: (i) periodic notices or reports to Landlord and Lender in form, substance and at such intervals as Landlord or Lender may specify; (ii) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters; (iii) at Tenant's sole expense, supplemental examination of the Leased Premises by consultants specified by Landlord or Lender; (iv) access to the Leased Premises by Landlord and Lender, its agents or servicer, to review and assess the environmental condition of the Leased Premises and Tenant's compliance with any operations and maintenance program; and (v) variation of the operations and maintenance program in response to the reports provided by any such consultants.

27. ENTRY BY LANDLORD AND LENDER. Landlord, Lender and their authorized representatives shall have the right upon reasonable notice (which shall be not less than 48 hours except in the case of emergency) to enter the Leased Premises at all reasonable business hours, (and at all other times in the event of an emergency), for (i) the purpose of inspecting the same, including, without limitation, the right to conduct an environmental inspection of the Leased Premises, or for the purpose of doing any work under Paragraph 9, and may take all such action thereon as may be necessary or appropriate for any such purpose (but nothing contained in this Lease or otherwise shall create or imply any duty upon the part of Landlord or Lender to make

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any such inspection or do any such work), and Tenant shall cooperate with all such inspections, work and/or action; *provided, however*, that if a default has occurred and is continuing, such inspections and work shall be at Tenant's sole cost and expense, and (ii) the purpose of showing the Leased Premises to prospective Lenders. No such entry shall constitute an eviction of Tenant but any such entry shall be done by Landlord and/or Lender in such reasonable manner as to minimize any disruption of Tenant's business operation.

28. **FINANCIAL STATEMENTS.** Unless publicly available, at Landlord or Lender's request, Tenant shall provide the prior fiscal year's annual audited financial statements.

29. **NO USURY.** The intention of the parties being to conform strictly to the usury laws now in force in the State, whenever any provision herein provides for payment by Tenant to Landlord of interest at a rate in excess of the legal rate permitted to be charged, such rate herein provided to be paid shall be deemed reduced to such legal rate.

30. **BROKER.** Landlord and Tenant represent and warrant to each other that neither party negotiated with any broker in connection with this Lease and that this Lease was negotiated directly by Landlord and Tenant. Each party hereby agrees to indemnify the other against all claims, damages, costs and expenses incurred by the indemnified party as a result of the breach of the foregoing representation or warranty by the indemnifying party.

31. **WAIVER OF LANDLORD'S LIEN.** Landlord hereby waives any right to distrain Trade Fixtures or any property of Tenant and any Landlord's lien or similar lien upon Trade Fixtures and any other property of Tenant regardless of whether such lien is created or otherwise. Landlord agrees, at the request of Tenant, to execute a waiver of any Landlord's or similar lien for the benefit of any present or future holder of a security interest in or lessor of any of Trade Fixtures or any other personal property of Tenant. Landlord acknowledges and agrees in the future to acknowledge (in a written form reasonably satisfactory to Landlord and Tenant) to such Persons at such times and for such purposes as Tenant may reasonably request that Trade Fixtures are Tenant's property and not part of Improvements (regardless of whether or to what extent such Trade Fixtures are affixed to the Improvements) or otherwise subject to the terms of this Lease.

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32. **NO WAIVER.** No delay or failure by either party to enforce its rights hereunder shall be construed as a waiver, modification or relinquishment thereof.

33. **SEPARABILITY.** If any term or provision of this Lease or the application thereof to any provision of this Lease or the application thereof to any Person and/or circumstance shall to any extent be invalid and unenforceable, the remainder of this Lease, or the application of such term or provision to Persons and/or circumstance(s) other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

34. **INDEMNIFICATION.** Tenant agrees to defend, pay, protect, indemnify, save and hold harmless Landlord and Lender, any entity controlled by Landlord or Lender and each of their respective officers, directors, employees, shareholders, agents, members and partners and each of their respective successors and assigns (including, without limitation, any participant, holder of a trust certificate or holder of any beneficial direct or indirect interest in a Loan by Lender), from and against any and all liabilities, losses, damages, penalties, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever, howsoever caused, arising from (a) any of the Leased Premises or Adjoining Property, (b) the use, non-use, occupancy, ownership, condition, design, construction, maintenance, repair, rebuilding, casualty or condemnation of any of or otherwise relating to, the Leased Premises or Adjoining Property, including, but not limited to, any matter arising under or relating to any Environmental Law, any injury to or death of any person or persons or any loss of or damage to any property, real or personal, in any manner arising therefrom connected therewith or occurring thereon, or (c) any default by Tenant or Event of Default under this Lease (collectively, "Losses"), whether or not Landlord or Lender has or should have knowledge or notice thereof, if any, causing or contributing to said Loss and whether or not the event in question arose prior to or after the date of this Lease. In case any action or proceeding is brought against Landlord or Lender by reason of any such Loss, Tenant covenants upon notice from Landlord or Lender to defend Landlord and/or Lender in such action, with the expenses of such defense paid by Tenant, and Landlord or Lender will cooperate and assist in the defense of such

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action or proceeding if reasonably requested so to do by Tenant. The obligations of Tenant under this Paragraph 34 shall survive the expiration or earlier termination of this Lease.

35. **PERMITTED ENCUMBRANCES.** Tenant agrees that Tenant is obligated to and shall perform all obligations of the owner of the Leased Premises and pay all expenses which the owner of the Leased Premises may be required to pay in accordance with the Permitted Encumbrances. Tenant further covenants and agrees to indemnify, defend and hold harmless Landlord and Lender against any claim, loss or damage suffered by Landlord or Lender by reason of Tenant's failure to perform any obligations or pay any expenses as required under any of the Permitted Encumbrances or comply with the terms and conditions of any of the Permitted Encumbrances as hereinabove provided during the term of this Lease.

36. **EXPENSES.** Whenever this Lease provides for the reimbursement by Tenant of costs and expenses of Landlord or Lender or any other party, such reimbursement obligation shall be limited to actual, out-of-pocket third-party costs and expenses (including reasonable attorney's fees and expenses). In addition to any other costs payable hereunder by Tenant, Tenant acknowledges and agrees that whenever (i) it makes a request of Landlord and/or Lender or seeks Landlord's and/or Lender's consent or approval to any matter with respect to this Lease, (ii) a casualty or Condemnation occurs or (iii) there is a default by Tenant or Event of Default under this Lease; or (iv) Landlord or Lender incurs expenses in connection with satisfying any obligations of Landlord or Tenant which are required to be performed after the date of this Lease pursuant to any Permitted Encumbrance, Tenant shall pay all reasonable costs and expenses incurred by Landlord and/or the Lender (including without limitation, reasonable attorney's fees and expenses) arising out of the foregoing.

37. **HEADINGS.** The paragraph headings in this Lease are used only for convenience in finding the subject matters and are not part of this Lease or to be used in determining the intent of the parties or otherwise interpreting this Lease.

38. **MODIFICATIONS.** This Lease may be modified, amended, discharged or waived only by an agreement in writing signed by the party against whom enforcement of any such

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modification, amendment, discharge or waiver is sought. Each of Tenant and Landlord agrees that it will not modify or amend this Lease without the written consent of Lender within any period during which there is a Lender hereunder. In the event of any inconsistent instruction from Landlord and Lender, Tenant shall comply with the instruction of Lender.

39. **SUCCESSORS, ASSIGNS.** The covenants of this Lease shall run with the Land and bind Tenant, the heirs, distributees, personal representatives, successors and permitted assigns of Tenant and all present and subsequent encumbrances and subtenants of any of the Leased Premises, and bind Landlord, its successors and assigns, and inure to the benefit of each of the parties hereto, their respective executors, administrators, heirs, successors and assigns, as the case may be. In the event there is more than one person that composes Tenant, the obligation of each shall be joint and several. The term "Landlord" as used in this Lease, so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners of the Leased Premises or holder of the Mortgage in possession at the time in question of the Leased Premises and in the event of any transfer or transfers of the title of the Leased Premises, the Landlord herein named (and in case of any subsequent transfers or conveyances, the then Landlord) shall be automatically freed and relieved from and after the date of such transfer and conveyance of all personal liability as respects the performance of any covenants or obligations on the part of Landlord contained in this Lease thereafter to be performed.

40. **COUNTERPARTS.** This Lease may be executed in several counterparts, which together shall be deemed one and the same instrument.

41. **TIME OF THE ESSENCE.** Time is of the essence in this Lease and each and every provision hereof in which any date or time is specified.

42. **GOVERNING LAW.** This Lease shall be governed by and construed according to the laws of the State.

43. **LENDER AS THIRD PARTY BENEFICIARY.** Lender shall be deemed a third party beneficiary with respect to all provisions of this Lease that purport to confer benefits upon Lender or impose obligations upon Tenant or Landlord in order to protect the interests of Lender.

44. **INTENTIONALLY LEFT BLANK.**

45. **BANKRUPTCY.** (a) As a material inducement to Landlord executing this Lease, Tenant acknowledges and agrees that Landlord and Lender are each relying upon (i) the financial condition and specific operating experience of Tenant, (ii) Tenant's timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Code for Tenant, and (iii) in the event of the entry of an order for relief under the Code for Tenant, this Lease being assumed within 60 days of such order, or this Lease being rejected within such 60 day period and the Leased Premises surrendered to Landlord. Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Tenant hereby agrees that: (i) all obligations that accrue or become due under this Lease (including the obligation to pay Rent), from and after the date that an Action is commenced shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Landlord and Lender; (ii) any and all obligations under this Lease that accrue or become due from and after the date that an Action is commenced and that are not paid as required by this Lease shall, in the amount of such Rents, constitute administrative expense claims allowable under the Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after the commencement of the Action; (iii) any extension of the time period within which Tenant may assume or reject this Lease without an obligation to cause all obligations accruing or coming due under this Lease from and after the date that an Action is commenced to be performed as and when required under this Lease shall be harmful and prejudicial to Landlord and Lender; (iv) any time period designated as the period within which Tenant must cure all defaults and compensate Landlord and Lender for all pecuniary losses which extends beyond the date of assumption of this Lease shall be harmful and prejudicial to Landlord and Lender; (v) any assignment of this Lease must result in all terms and conditions of this Lease being assumed by the assignee without alteration or amendment, and any assignment which

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results in an amendment or alteration of the terms and conditions of this Lease without the express written consent of Landlord and Lender shall be harmful and prejudicial to Landlord and Lender; (vi) any proposed assignment of this Lease to an assignee: that does not possess financial condition, operating performance and experience characteristics equal to or better than the financial condition, operating performance and experience of Tenant as of the date of this Lease with a financial condition equal to or better than the financial condition of the original guarantor of this Lease as of the date of this Lease, shall be harmful and prejudicial to Landlord and Lender; and (vii) the rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Code, and Tenant stipulates that such automatic stay shall be lifted immediately and possession of the Leased Premises will be delivered to Landlord and Lender immediately without the necessity of any further action by Landlord or Lender.

(b) No provision of this Lease shall be deemed a waiver of Landlord's or Lender's rights or remedies under the Code or applicable law to oppose any assumption and/or assignment of this Lease, to require timely performance of Tenant's obligations under this Lease, or to regain possession of the Leased Premises as a result of the failure of Tenant to comply with the terms and conditions of this Lease or the Code.

(c) Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Code.

(d) For purposes of this Article addressing the rights and obligations of Landlord and Tenant in the event that an Action is commenced, the term "Tenant" shall include Tenant's successor in bankruptcy, whether a trustee, Tenant as debtor in possession or other responsible person.

46. **ATTORNEYS' FEES.** In the event that either Tenant or Landlord employs an attorney or attorneys to enforce or defend any of the conditions, covenants, rights or obligations of this Lease, then the prevailing party shall be entitled to reimbursement from the other of all
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reasonable costs and expenses incurred by the prevailing party in so doing, including, but not by way of limitation, all reasonable attorneys' fees and all other reasonable costs incurred or paid by the prevailing party.

47. **PURCHASE OPTION.** Provided there is no uncured default under the Lease, Tenant shall have the right to purchase the Leased Premises after the Expiration Date (the "**Purchase Option**") for ONE DOLLAR (\$1.00) (the "**Purchase Price**"). Tenant's Purchase Option hereunder shall be subordinated to the Mortgage. Unless Tenant notifies Landlord in writing at least 180 days prior to the Expiration Date that it does not wish to exercise the Purchase Option, Tenant shall be deemed to have exercised the Purchase Option and closing shall occur within thirty (30) days following the Expiration Date (the "**Closing Date**"). Landlord shall convey title by special warranty deed, free from encumbrances other than (i) the Permitted Encumbrances, (ii) liens or encumbrances created or suffered through or by or with the consent of Tenant, and (iii) any installments of Taxes due and payable after the Closing Date. Such deed shall contain an agreement by grantee to observe and perform all of the covenants, conditions and restrictions contained in any instruments of record which were assumed by Landlord or deemed to have been assumed by Landlord on its acquisition of title. The acceptance of a deed by Tenant shall be deemed to be a full performance and discharge of every agreement and obligation on the part of Landlord to be performed pursuant to the provisions hereof. Tenant shall pay all conveyance, transfer, sales and like taxes and recordation fees required in connection with the purchase. If there are any adverse title matters other than those to which Landlord's conveyance under special warranty deed may be subject as set forth in subparagraphs (i) through (iii) above, upon request made a reasonable time before the Closing Date, Tenant shall provide at the closing separate funds for the foregoing, payable to each holder of such lien or encumbrances, and such funds shall be added to the Purchase Price payable to Lender or Landlord, as the case may be.

48. **CROSS ACCESS EASEMENT AGREEMENT.**

Within 180 days after the execution of this Lease Agreement, Landlord and the owner of the shopping center adjacent to the Leased Premises, more commonly known as the

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HUB Shopping Center, shall execute and send for recordation in the official records of the City of Jersey City, County of Hudson, State of New Jersey, a cross access easement agreement (the "Easement Agreement") for the purpose of providing sidewalks, driveways, parking spaces, and other common areas for ingress and egress for the benefit of the Leased Premises. The Easement Agreement shall be a Permitted Exception which runs with the Land.

49. BASE BUILDING AND FIT-UP WORK.

Landlord shall be responsible for constructing and completing the Base Building Work as defined in Exhibit C at Landlord's sole cost and expense. In addition to the Base Building Work, Landlord shall perform, on Tenant's behalf, the work to complete the construction of the Leased Premises in accordance with the provisions of Exhibit C (the "**Fit-Up Work**"). Landlord shall provide an allowance of \$50.00 per square foot towards the cost of the Fit-Up Work (the "**Tenant's Allowance**"). The square footage used in the calculation of the Tenant's Allowance shall be based upon the total square footage of the building as measured by the exterior dimensions of the building. Tenant shall be responsible for all costs of the Fit-Up Work which Landlord incurs exceeding the Tenant Allowance.

Landlord shall perform the Base Building Work and Fit-Up Work in a good and workmanlike manner in accordance with all applicable building codes and other Legal Requirements.

50. WARRANTY OF TITLE.

Landlord represents that it will have, effective as of the Commencement Date, title to the Land and that it has the full right, capacity and authority to enter into the Lease.

51. FORCE MAJEURE.

Except for the obligation of Tenant to pay Basic Rent and other charges as provided in this Lease and any payments due to Tenant from Landlord, the period of time during

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which Landlord or Tenant is prevented from performing any act required to be performed under this Lease by reason of fire, catastrophe, strikes, lockouts, civil commotion, acts of God or the public enemy, government prohibitions or preemptions, embargoes, inability to obtain material or labor by reason of governmental regulations or prohibitions, the act or default of the other party, or other events beyond the reasonable control of Landlord or Tenant, as the case may be, shall be added to the time for performance of such act. Anything herein contained to the contrary notwithstanding, the adverse financial condition of Landlord or Tenant shall not constitute Force Majeure. A party wishing to invoke this Section 51 shall give the other party notice of that intention within ten (10) days after the commencement of an event of Force Majeure and shall, at that time, specify the reasons therefor, the specific provisions of this Lease which will be delayed as a result, and the period of such extension, if known, or if not known, a reasonable estimate thereof.

52. **ACQUISITION.**

(a) Landlord shall proceed diligently and use reasonable and good faith efforts to acquire fee title to the Land.

(b) In the event that Landlord, despite diligent and commercially reasonable efforts by Landlord, has not acquired fee title to the Land within 90 days after the City of Jersey City approves the subdivision of land from a larger parcel ("Landlord's Satisfaction Date"), then either party may at its election, upon thirty (30) days' written notice to the other, at any time after Landlord's Satisfaction Date, elect to terminate this Lease. In the event that Landlord should acquire fee title to the Land prior to the end of such (30) day notice as provided for herein,

Landlord shall so advise Tenant in writing and the notice of termination shall be deemed null and

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void and this Lease shall remain in full force and effect

(c) In the event that Landlord and Tenant have executed a short form or memorandum of this Lease for recording prior to Landlord's closing of title to the Land, Landlord shall cause such short form or memorandum to be duly recorded immediately after the deed of conveyance to Landlord, at Landlord's expense. Within five (5) days after the closing of title to the Land, Landlord shall give Tenant notice thereof.

53. **LANDLORD DEFAULT.**

If Landlord shall from time to time fail to perform any act or acts required of Landlord by this Lease and if such failure continues for thirty (30) days after receipt of notice from Tenant, Tenant shall then have the right, in addition to such remedies as may be available under law or in equity, at Tenant's option, to perform such act or acts, in such manner as Tenant deems reasonably necessary, and the full amount of the cost and expense so incurred shall immediately be owing by Landlord to Tenant but in no such event shall Tenant offset the amount of Basic Rent due and payable to Landlord and Tenant shall continue to pay in full Basic Rent due hereunder. If Landlord shall in good faith within said thirty (30) days commence to correct such breach, and diligently proceed therewith to completion, then Landlord shall not be considered in default.

54. **MEASUREMENT OF PREMISES.**

Within twenty (20) days after the completion of the first course of masonry for the exterior walls of the Premises, Landlord shall deliver to Tenant a certification to Tenant by Landlord's licensed architect, surveyor, or engineer of the exterior dimensions and the floor area

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(with the dimensions on which it is based) of the Leased Premises, the measurements of which shall be subject to confirmation by Tenant's licensed architect, surveyor, or engineer. If Landlord shall fail to deliver such certification to Tenant, Tenant shall have the right to have any such measurements made and certified to Landlord by Tenant's licensed architect, surveyor, or engineer. If the exterior dimensions and/or floor area of the Leased Premises vary from those shown on the approved plans and specifications, then within ten (10) days after receipt of the measurements from Landlord, Tenant shall provide Landlord with a certification from Tenant's licensed architect, surveyor, or engineer that the aggregate exterior dimensions of the premises is less than 59,500 square feet. If Tenant fails to deliver such certification to Landlord within the ten (10) day period, Tenant shall be deemed to have accepted Landlord's measurement. If Tenant timely delivers such certification to Landlord and such certification reflects that the exterior dimensions of the Leased Premises is less than 59,500 square feet, the Basic Rent and any other applicable provision of this Lease shall be reduced to conform to the actual measurement, and Tenant shall receive a proportional refund of any rent theretofore paid to Landlord. If the measurement of the Premises after Landlord corrects any work indicates that the exterior dimensions of the Leased Premises is 59,500 square feet or greater, the exterior dimensions shall be stipulated to be 60,000 square feet, and the Basic Rent shall be as set forth in Exhibit "B". Landlord and Tenant shall each promptly execute and deliver to the other an amendment memorializing any change to Basic Rent, or any other applicable provisions of this Lease, made pursuant to this Section.

55. PERFORMANCE BOND.

Landlord shall obtain a performance bond for the completion of the Work contemplated in Exhibit C and such performance bond shall name Tenant as an additional obligee, if allowable by the bonding company. In the event such Work is not completed by October 1, 2016, Tenant may execute its rights pursuant to such performance bond. If the performance bond does not name Tenant as an additional obligee, and the work is not complete by October 1, 2016, it shall be assignable to Tenant if Landlord does not execute its rights pursuant to such performance bond. Under no circumstances shall such performance bond require any payment from the City's insurance policies.

56. **NATURE OF LEASE/INSTALLMENT PURCHASE.** Notwithstanding anything to the contrary set forth in this Lease, the parties hereto intend that this Lease be treated as an installment purchase agreement pursuant to N.J.S.A. 40A:12-5(b), and that the obligation of the City to make payments hereunder are valid and binding for the term of the Lease and are not otherwise subject to annual appropriation.

[Signature Page Follows]

IN WITNESS WHEREOF, Landlord and Tenant have caused this instrument to be executed under seal as of the day and year first above written.

JERSEY CITY MUNICIPAL, LLC

By: _____
Name:
Title:

CITY OF JERSEY CITY

By: _____
Name:
Title:

EXHIBIT A

The "Leased Premises" will be built on an approximately 0.556 acre portion of a 6.95 acre parcel - Block 21201, Lot 17. It will be an L-shaped site located along the southwest corner of Lot 17 at the intersection of Kearney Avenue and Martin Luther King Drive.

The legal description shall be added to this Exhibit A upon completion of the subdivision process.

EXHIBIT B

Basic Rent

For purposes of this Exhibit B, the first lease year shall commence on the Basic Rent Commencement Date and shall terminate on the last day of the calendar month in which the 364th day after the Basic Rent Commencement Date occurs. Each lease year thereafter shall commence on the anniversary of the Basic Rent Commencement Date and shall continue for 364 days thereafter (or in the case of a leap year, the 365th day thereafter); *provided, however*, that the last lease year shall terminate on the Expiration Date.

1. [See Exhibit B]

EXHIBIT "B"

BASIC RENT

MLK City Hall Annex Building

Basic Rent

Based on 60,000 Square Feet

Year	\$PSF	\$Monthly	\$Annual
1	\$21.40	\$107,000	\$1,284,000
2	\$21.40	\$107,000	\$1,284,000
3	\$21.40	\$107,000	\$1,284,000
4	\$21.40	\$107,000	\$1,284,000
5	\$21.40	\$107,000	\$1,284,000
6	\$25.25	\$126,250	\$1,515,000
7	\$25.88	\$129,400	\$1,552,800
8	\$26.53	\$132,650	\$1,591,800
9	\$27.19	\$135,950	\$1,631,400
10	\$27.87	\$139,350	\$1,672,200
11	\$28.57	\$142,850	\$1,714,200
12	\$29.28	\$146,400	\$1,756,800
13	\$30.01	\$150,050	\$1,800,600
14	\$30.76	\$153,800	\$1,845,600
15	\$31.53	\$157,650	\$1,891,800
16	\$32.32	\$161,600	\$1,939,200
17	\$33.13	\$165,650	\$1,987,800
18	\$33.96	\$169,800	\$2,037,600
19	\$34.81	\$174,050	\$2,088,600
20	\$35.68	\$178,400	\$2,140,800
21	\$36.57	\$182,850	\$2,194,200
22	\$37.48	\$187,400	\$2,248,800
23	\$38.42	\$192,100	\$2,305,200
24	\$39.38	\$196,900	\$2,362,800
25	\$40.37	\$201,850	\$2,422,200

Jersey City, New Jersey
MLK

Year	Principal	Interest	Annual Debt Payment	Trustee Fee	Annual Rent Payments
1	131,694	1,147,306	1,279,000	5,000	1,284,000
2	137,881	1,141,119	1,279,000	5,000	1,284,000
3	144,359	1,134,641	1,279,000	5,000	1,284,000
4	151,142	1,127,858	1,279,000	5,000	1,284,000
5	158,243	1,120,757	1,279,000	5,000	1,284,000
6	401,610	1,108,390	1,510,000	5,000	1,515,000
7	459,163	1,088,712	1,547,875	4,925	1,552,800
8	520,386	1,066,311	1,586,697	5,103	1,591,800
9	585,477	1,041,012	1,626,489	4,911	1,631,400
10	654,643	1,012,634	1,667,276	4,924	1,672,200
11	728,099	980,984	1,709,083	5,117	1,714,200
12	806,074	945,861	1,751,935	4,865	1,756,800
13	888,807	907,052	1,795,859	4,741	1,800,600
14	976,548	864,333	1,840,880	4,720	1,845,600
15	1,069,561	817,467	1,887,027	4,773	1,891,800
16	1,168,122	766,206	1,934,328	4,872	1,939,200
17	1,272,522	710,290	1,982,811	4,989	1,987,800
18	1,383,064	649,442	2,032,507	5,093	2,037,600
19	1,500,069	583,375	2,083,444	5,156	2,088,600
20	1,623,872	511,783	2,135,655	5,145	2,140,800
21	1,754,825	434,347	2,189,172	5,028	2,194,200
22	1,893,296	350,730	2,244,026	4,774	2,248,800
23	2,039,674	260,578	2,300,252	4,948	2,305,200
24	2,194,365	163,518	2,357,883	4,917	2,362,800
25	2,357,795	59,160	2,416,955	5,245	2,422,200
Totals	25,001,291	19,993,864	44,995,155	124,245	45,119,400

EXHIBIT C

Exhibit C

C1. Landlord shall obtain all financing required for the construction of the "Base Building Work," meaning the construction of a three-story building (with two-story wings) of approximately 60,000 square feet as measured to the exterior dimensions of the building (the "Project") with the following construction characteristics attached as Schedule A and as follows:

- Foundations Poured in place reinforced concrete; reinforced slab on grade.
- Structural Systems Steel Frame, Metal Deck with Concrete topping.
- Roof System Steel Frame, Metal Deck, Insulation and (TPO) Thermoplastic Polyolefin Roof.
- Exterior Framing 6" Steel Studs, Insulation, Face Brick and Cast Stone.

C2. Landlord shall, at its own cost and expense (except as provided herein), construct and perform the Base Building Work in accordance with the provisions of this Exhibit "C".

C3. When plans and specifications for the Base Building Work are complete, Landlord shall deliver to the Tenant final construction plans and specifications in conformity with Exhibit "C". Tenant shall notify Landlord within ten (10) days after receipt of the final plans and specifications ("Base Building Plans and Specifications") of Tenant's approval or disapproval of same. Tenant may only disapprove of the Base Building Plans and Specifications if the same: (i) do not conform to this Exhibit "C" or

(ii) would violate any applicable Legal Requirement (collectively, "Tenant's Permitted Objection"). In the event Tenant shall not approve such Base Building Plans and Specifications in accordance with this Section, Tenant shall notify Landlord in writing of any changes required by Tenant; and Landlord shall, within ten (10) days after receipt of Tenant's proposed changes, incorporate any such reasonable changes therein and deliver the final plans and specifications (as revised, the "Revised Base Building Plans and Specifications") to Tenant, for Tenant's approval. Tenant shall notify Landlord within five (5) days after receipt of the Revised Base Building Plans and Specifications of Tenant's approval or disapproval of same. The Base Building Plans and Specifications, as revised and approved, are referred to as the "Final Base Building Plans and Specifications." Landlord shall deliver to Tenant a Construction Schedule showing an estimated construction commencement date and a target date of Substantial Completion (defined below). The Construction Schedule shall include dates by which Tenant is required to deliver to Landlord plans and specifications (the "Plans and Specifications") for the Fit-Up Work. Landlord shall provide Tenant with any amendments to the Construction Schedule as construction progresses.

C4. Landlord shall apply for and obtain all permits, licenses and approvals required to perform the Base Building Work and the Fit-Up Work (together, the "Work") at Landlord's sole cost and expense. Landlord will, within a reasonable period of time, provide copies of all applications relating to the approvals to Tenant. Landlord shall perform the Work and cause the Improvements to be constructed in a good and workmanlike manner in accordance with the provisions of this Lease. Landlord shall

comply, and shall cause its contractors and subcontractors to comply, with all Legal Requirements applicable to the construction of the Improvements.

C5. Tenant shall submit the Plans and Specifications to Landlord, for Landlord's approval, in accordance with the Construction Schedule. Landlord shall review the Plans and Specifications for consistency with the Final Base Building Work and shall notify Tenant of its approval or disapproval within 15 days after submission. Landlord may only disapprove the Plans and Specifications if Landlord shall determine that the same: (i) do not conform to the Final Base Building Plans and Specifications; or (ii) would subject Landlord to any additional cost, expense or liability; or (iii) would violate any Legal Requirement. In the event Landlord shall not approve the Plans and Specifications, Landlord shall notify Tenant in writing of any changes required by Landlord; and Tenant shall incorporate any such reasonable changes therein and deliver the final Plans and Specifications (as revised, the "Revised Plans and Specifications") to Landlord, for Landlord's approval within ten (10) days after receipt of Landlord's proposed changes. Landlord shall notify Tenant within five (5) days after receipt of the revised Tenant's Plans of Landlord's approval or disapproval of same. Notwithstanding any other provision herein, in the event that there continues to be a dispute regarding the Plans and Specifications, the parties shall submit the Plans and Specifications to mediation and such Plans and Specifications shall be finalized within 30 days of submission to such mediator; provided however, the Landlord shall have the final ability to make reasonable adjustments to the Plans and Specifications. The Plans and Specifications, as revised and approved, are referred to as the "Final Tenant Work Plans and Specifications."

C6. Within 30 days after receipt of the Final Tenant Work Plans and Specifications, Landlord shall deliver to Tenant a budget for the performance of the Fit-Up Work in accordance with the Final Tenant Work Plans and Specifications (the "Tenant Work Budget"). If the Tenant Work Budget exceeds the amount of Tenant's Allowance, Landlord and Tenant shall promptly meet to discuss how the Final Tenant Work Plans and Specifications may be revised to bring the Tenant Work Budget within Tenant's Allowance. If Tenant desires nevertheless to proceed with the Fit-Up Work regardless of such overage, Tenant shall deliver to Landlord a notice (a) confirming Tenant's desire to proceed with the Fit-Up Work and acknowledging Tenant's responsibility to pay for the overage and (b) describing the source of funding to pay the overage.

C7. Following approval of the Final Tenant Work Plans and Specifications and the Tenant Work Budget, Tenant may make changes to the Fit-Up Work (a "Change Order"), provided that (a) if a Change Order results in an increase in the Tenant Work Budget, Landlord and Tenant shall follow the procedure described in C6 above and (b) if such Change Order results in a delay in the Date of Substantial Completion, Tenant shall confirm in writing the duration of the delay.

C8. Landlord and Tenant shall each designate one or more individuals to serve as its representatives in connection with the construction of the Improvements (a "Landlord Representative" and a "Tenant Representative"), who shall have authority to act on Landlord's and Tenant's behalf, respectively, in connection with the matters described in

this Exhibit C. Tenant shall have the right to monitor the performance of the Fit-Up Work, including participation by Tenant's Representative in construction meetings relating to the Fit-Up Work.

C9. Landlord shall require all architects, engineers, contractors and subcontractors engaged in connection with the performance of the Work to be licensed in accordance with Legal Requirements and to obtain and maintain errors and omissions insurance with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate in favor of both Landlord and Tenant.

C.10. As soon as practicable, and in no event later than 60 days after the Date of Substantial Completion, Landlord shall deliver to Tenant:

- (a) one complete set of final "as-built" plans and specifications for the completed Improvements;
- (b) an "as built" survey prepared by a registered land surveyor or engineer depicting the location of the Improvements on the Land; and
- (c) one complete set of operations and maintenance manuals for all systems, equipment, furniture and fixtures relating to the Improvements.

C11. The term "Date of Substantial Completion" means the date upon satisfaction of both of the following conditions: (a) the issuance of a certificate of occupancy by the appropriate governmental entity and (b) such completion as render the Improvements sufficient, suitable and ready for Tenant's immediate occupancy.

C12. Not later than the date Tenant has opened the Leased Premises for business, Landlord Representative and Tenant Representative together shall conduct a walk-through of the Leased Premises to compile a list of the "Punch List Items" (as hereinafter defined). Tenant shall deliver to Landlord a copy of said punch list within five (5) days after the walk-through. Landlord shall complete the Punch List Items within sixty (60) days after it receives a copy of said punch list. If Landlord fails to complete any Punch List Items within said sixty (60) day period, Tenant shall give Landlord notice thereof. If Landlord fails to complete such Punch List Items within five (5) days after Landlord receives Tenant's notice, Tenant shall have the right to complete such item(s) using its own contractors and receive reimbursement from Landlord for the reasonable costs and expenses thereof upon demand. If Landlord fails to reimburse Tenant for such costs, Tenant shall give notice to Landlord of the costs that Tenant incurred and Landlord shall reimburse Tenant within ten (10) days after the date Landlord receives such notice. The term "Punch List Items" shall mean such minor items which, when considered as a whole, do not adversely affect Tenant's ability to conduct its normal business operations in the Leased Premises.

SKANSKA

Jersey City HUB, Municipal Building - Brandywine Financial Services
Scope of Work Narrative - Interiors
Jersey City, NJ
August 8, 2014

Architectural:

- Base Scope of Core Work includes one 3 stop Hydraulic Elevator, 2500 lb capacity with drywall partition (rated shaft wall) enclosure. There is an add alternate for a second passenger elevator. Both to have standard cab finishes.
- The building entrance lobby on the first floor totals 324 sf and is enclosed by a drywall partition and includes a flooring allowance of \$30/sf and a ceiling allowance of \$8/sf furnished & installed. Interior of lobby walls to be painted with an allowance for a building directory (1) and other interior core building signage of \$5,000. ②
- Interior drywall column enclosures, interior of perimeter exterior wall drywall and ductwork shaft enclosures are assumed to be by tenant fitout costs and not included in the estimate. ③
- 3 sets of pan filled metal stairs are included - 2 that service all three floors & all enclosed in 2hr rated partitions that are painted with drywall ceilings and sealed concrete floors.
- Plastic laminate interior window sills have been included and an allowance of 20 hollow metal framed wood doors with standard door hardware at interior areas - Lobby, Stair wells, T/D rooms, MEP room, etc. ④
- Additional enclosed areas include 3 Tele/data closets - approximately 4' x 6' for each floor, enclosed with drywall partitions, sealed floors and no ceiling. The T/D rooms will each receive a 4' x 8' sheet of plywood for equipment mounting (by others). A general MEP room has been included at approximately 10' x 10' and enclosed with drywall partitions, sealed floors and no ceiling. A 5' x 10' elevator machine room has also been included with the same finishes as above.
- The building will be fully spray fireproofed with a wet sprinkler system with upright heads at future fit out areas. An add alternate has been provided if a fire pump is required if inadequate water pressure exists.

Fire Protection -

- Risers sized and installed for the complete building with tamper and flow switches
- All sprinkler heads installed at normal density. In areas where we install the ceilings, the heads will be semi recessed. In areas to be fit-out later, the heads are up turned until the fit-out is complete.

Plumbing -

- Install 1 hot water heater for the janitors closet and future core bathrooms
- Install a mop sink and hose Bibb for 1 janitors closet
- Roof drains and rain water conductors are installed from the roof to ground level
- Rough-in for drains, vents and water for future core toilet areas. Fit-out for complete Toilet Rooms are in the Tenant Fit-out.

Mechanical -

- Install all Air Conditioning on the roof
 - o First Floor - 50 Tons, Gas Fired, "DX" type
 - o Second Floor - 50 Tons, Gas Fired, "DX" type
 - o Third Floor - 20 Tons, Gas Fired, "DX" type

- ① Part of the Fit-Up Work.
- ② Costs above these amounts are within Tenant's Allowance.
- ③ Part of the Fit-Up Work.
- ④ Additional doors are part of the Fit-Up Work.

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Jersey City HUB, Municipal Building – Brandywine Financial Services
Scope of Work Narrative - Interiors
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- Lobby and Stair – 5 Ton AC Unit Gas Fired, DX
- Exhaust Fan for the Elevator Machine Room – approximately 600 CFM
- Provisions for a roof mounted Exhaust Fan for the Future Toilet rooms are included
- Cabinet Unit Heaters installed at the base of the egress stairs
- Electric Baseboard heaters installed at the lobby windows
- Ductwork
 - Risers installed from the units on roof to each floor
 - 1 medium pressure duct run per floor
 - 6-Variable Air Boxes installed in the 1st & 2nd Floors for keeping the future tenant space at 50 degrees until fit-out
 - 5-VAV boxes installed on the 3rd floor for keeping the future tenant space at 50 degrees until fit-out

Electrical *

- Service
 - 1 – 1000 Ampere, 265/460 Volt main distribution panel for the building with branches to serve a mechanical panel and house panels and provisions for future tenants
 - 1 – 100 Ampere House lighting & site lighting panel
 - 1 – 30 KVA step down transformer
 - 1 – 100 Ampere 120/208 Volt panel for house receptacle loads
 - 1 – 200 ampere mechanical panel on the 3rd floor to serve the A/C units on the roof
- Lighting
 - Lighting for the lobby, t-5 fluorescent or CLF fluorescent down lights
 - Lighting on each landing of the stairs
 - Utility strip lights in the janitors closet and electrical room
 - Local switches where required
- Power
 - GFI's in the janitors closet
 - Duplex receptacles in the lobby
 - 120 volt connections for the telephone board, fire alarm and security panels
- Communications
 - Sleeves through the 2nd & 3rd floors for future extension of tenant telephone wiring
 - Provisions for wall telephones in the lobby, main electrical room & janitor closet (cable, jack & phone by others)
- Fire Alarm
 - Pull stations at exit doors
 - Horn strobes in lobby and stairs
 - Strobe provisions for the future bathrooms
 - Duct smoke detectors on roof with the A/C units
 - Connections to the sprinkler tamper and flow switches
 - Smoke detectors, heat detectors and provisions for elevator recall for the elevator
- Security & CCTV

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Jersey City HUB, Municipal Building – Brandywine Financial Services
Scope of Work Narrative - Interiors
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- Provisions for security to be installed in the doors in the future
- 4 CCTV cameras with remote reporting via internet on the building perimeter
- Provisions for local main security & CCTV panels to be installed in the future